

Ratifying the European Constitutional Treaty:

Spanish conceptions of the EU's legitimacy

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FOREWORD

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SUMMARY

The Spanish people have maintained their reputation as the most Europhile nation since the membership's beginning in 1986. When they approved the European Constitution 20 February 2005 with a clear majority of 76.7 per cent, there is still reason to believe that their enthusiasm has not seized. Nevertheless, the EU Treaty was going to decrease Spain's political weight in the EU Council. It did not even change the Union's economic agenda which implied less financial aid to Spain. In public and elite debates, questionnaires and interviews, arguments manifested a multitude of reasons for voting Yes to the Constitution. They emphasised different features of how to appreciate the membership and the Treaty.

This master thesis dives into these Yes-arguments and analyses them. They are conflicting arguments that are believed to reflect three different conceptions of the EU's legitimacy. The analysis endeavours to point out which type of legitimisation provides the best reflection of the Spanish attitude towards the EU polity. These legitimisation modes are founded on an instrumental idea, a value-cultural idea and a right-based idea. Different layers of the Spanish public and political society reveal that their Yes-arguments are underpinned by different conceptions of the EU.

The researcher seeks to establish to which conception of a legitimate EU the Spanish Yes-vote speaks. Was the Treaty connected to Spain's traditionally beneficial EU membership? Did the constitutional document awaken a community-feeling that was based on a set of common traditions and values constitutive of Europe? Did it prompt self-conceiving rights-holders who spoke of the EU as a granter of fundamental rights and concomitant obligations? Together with endeavouring a reflective answer to these questions, the theoretical framework is constantly put into consideration. To apply three models does also involve to use them critically and to evaluate the operationalisation of them. The purpose is to arrive at nuanced and reflective image of the Spanish people's view of the EU polity.

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1. Introduction

Spain was the first country in the European Union to submit ‘the Treaty establishing a Constitution for Europe’ to a referendum and the first member to approve it. On February 20th 2005, more than three quarters of the Spanish voters said Yes while 17 per cent said No to the question: *Do you approve the draft treaty that establishes the Constitution for Europe?* In the Spanish Parliament 332 of the 350 members approved it some months earlier. It was no coincidence that Spain was chosen to be the first EU Member to vote on the European Constitutional Treaty (hereafter the ECT or the Treaty). The Spaniards have a reputation for being the most enthusiastically pro-European people in the EU and were therefore supposed to set an example for possible waverers such as Great Britain, France and the Netherlands.

Three months later in May and June, France and the Netherlands rejected the constitutional Treaty in national referenda. Only 45 per cent of the French and 38.5 per cent of the Dutch people voted Yes. When comparing the three results, the Spanish approval clearly demonstrates Spaniards’ europhile reputation and attitude. Still, curiosity is attached to the Spanish positiveness because Spain was at that time approaching an EU agenda of reduced financial support. From being the main recipient of EU structural funds in the 1990s, to enjoy only positive balances throughout the beginning of 2000, to end up in negative balances in 2007, clearly illustrates how Spain’s economic relationship to the EU has been in recession. Spain was about to become a net contributor instead of being a beneficiary of the membership. The ECT was not improving this situation. On the contrary, the Treaty was also to reduce Spain’s political weight in the EU Council. So why did not the Spanish people and politicians seize the opportunity to protest against the proposed Constitution and vote No, as they did in France and the Netherlands? Spain’s endorsement was doubtfully directed only by benefits from EU’s cohesion funds, which leaves us with the question: What was it about the ECT that appealed to the Spaniards so much that they approved it?

Not only Spain’s economic and political issues with the EU attract the attention here. The Spanish referendum experienced a remarkably low turnout. Only 42.3 per cent of Spain’s 34.6 million voters went to the polls 20 February. This makes nearly 21 million non-voters and only 11 million that showed up and voted Yes. This is the lowest participation Spain has

ever experienced in a referendum since the country's democratisation in the 1970s (Madroñal 2005:13). Compared with previous similar electoral processes in Europe, the record abstention level in Spain was exceptionally high (ibid). Additionally, three months before the referendum, 84 per cent admitted to know little to nothing about the ECT, while one week before, more than 90 per cent confessed they knew little to nothing despite widespread advertising campaigns¹ (CIS 2004:P1 and 2). Such Spanish behaviour initiates interest about their supposedly europhile attitude². It makes us question whether their EU enthusiasm led to the Yes-triumph or not. While there will not be made more speculations about the low participation, we will look at what attitude formed the Yes-voting Spaniards.

1.1 WHAT TO STUDY?

Along with making the EU work better, the second onus of the ECT was to close the polity's legitimacy deficit. Opinion polls since the 1990s have shown that the EU citizens have felt increasingly disconnected from the Union. Considering this, the procedures available to the Member States when the ECT is submitted to referenda, must also be weighed. They could choose between national referenda and parliamentary votes. The first channel enables the people to express their engagement and gives them a direct say. A widely held notion is that this reflects people's attitude better than what a parliamentary vote does. When citizens retain decision-making power through direct democracy, the procedures can be seen as more democratic and legitimate (Keohane 2005:5). Still, fifteen EU states chose to ratify the ECT in their parliaments – most likely because the chances for achieving a Yes-voting majority were greater in the Parliaments than among the public. Spaniards got the chance to speak up and utter their opinion 20 February. Their argumentation for their vote tells us about their view of the EU's legitimacy. Herein lies the nucleus of the thesis. By looking at *how* Spaniards defended their vote on the ECT, we are able to analyse how they legitimise the EU as a political system. Only arguments in favour of the Treaty are scrutinized.

Legitimacy remains as an essential term in this study. The notion of legitimacy can be used in different ways, referring to divergent situations³. However, legitimacy is believed to be a key resource in every political system and is often recognised as acceptable acts of Government, although it does not refer to *a* specific type of governance (Abromeit and Wolf

¹ <http://politics.guardian.co.uk/eu/comment/0,9236,1419206,00.html> (06 October 2005)

² See how Spain is illustrated as a Europeanist country <http://constitucion.blogspot.com/2004/07/vota-si.html> (13 November 2005)

³ See Lord 2000; Lord and Magnette 2002.

2005:3). The concept of legitimacy is assumed to vary between societies (Beetham 1991). In liberal democratic societies, there are supposedly three elements to legitimacy. These are *the performance of institutions; their conformity to democratic values of consent, representation and accountability; and political identity* (Lord 2000:3). Based on this interpretation of legitimacy it is necessary to recognise that there is neither *one* common agreement of what a legitimate EU political system involves, nor does this apply to the Spanish society.

The EU's legitimacy has emerged as a debated subject because its fundamental principles and telos have remained ambiguous (Eriksen and Fossum 2002). It is said that *legitimacy complies with the criteria of congruence and accountability* (Eriksen and Fossum 2000:21) which denotes that a legitimate EU polity must adhere to principles of liberty, equality, security and participation. Here the term *democratic legitimacy* arises and needs to be distinguished from mere legitimacy. Democratic legitimacy includes aspects of formal legality, normative acceptability and empirical acceptance of the political system (Abromeit 2000 in Abromeit and Wolf 2005:3). While the latter refers to the citizens' direct engagement in collective law- and decision-making where opinions are shared, the normative aspect refers to the polity's need to reflect the people's acceptance of the *process* through which the public will is formed (Eriksen and Fossum 2005:68). Democratic legitimacy is said to emanate from *the process through which a common will is formed on the basis of the right that all have to participate in collective deliberation* (ibid). To some people, these qualities do not pertain to the Union's field of competence. They contend that democratic legitimacy remains with the nation-states and consider the EU legitimate only when the system provides the members with discernable results. Two other perspectives contend that the Union is inclined to obtain democratic legitimacy. The EU polity relies thus on the reconciliation of common values or on citizens' public participation on EU level.

The ECT activated public engagement and enthusiasm towards European integration, but it also stimulated scepticism towards an EU whose nature was feared to become increasingly supranational. An interesting issue that arises here concerns how different people evaluate the commitments of the ECT. Since the notion of legitimacy may vary between societies, it is necessary to comprehend how to categorise these different views of legitimacy. In this study, it is believed that the Spanish arguments used to support the ECT, reveal the variety of Spanish conceptions of the EU's legitimacy. This generates a main question: *Which conceptions of the EU's legitimacy motivated the Spanish people to vote Yes to the ECT?*

1.2 WHY STUDY THIS?

Why study how the Spaniards view the Union's legitimacy? First of all, there is a considerable vagueness as to what type of political order the EU is developing into. The dynamic character of the EU has made its complexity and novelty a hot subject among researchers. The Laeken Declaration (2001), that built the groundwork for the ECT, asserted that the EU stands *at a crossroads, a defining moment in its existence*. By a *crossroads*, it is meant that there is a range of visions about the EU's different developmental pathways in the future as to what sort of democratic legitimacy the EU polity might achieve. The constitutional suggestion simply furthered the discussion on what sort of political entity the EU was and ought to become. As Fossum and Trenz (2005:3) said: *The constitution making process is a particularly opportune instance for clarifying the dynamics of social and political integration in Europe, (...)*. The ECT introduced a political moment that enables us to define the EU polity's legitimacy. The Spanish approval and its argumentative foundation are thought to reveal the Spanish population's view of democratic legitimacy.

Secondly, that Spain's relationship to the Union prior to the referendum had implied reductions in economic aid and that the ECT would cause a cut of political influence, gave the Spanish people an obvious motive for voting No. Against these odds, Spaniards made a clear firm Yes. What made them find alternative ways to defend their Europeanism and to further the European integration process? What thirdly triggers this analysis is that the EU proposed a *Constitution* that refers to a concept with deep implications and symbolism. The prospect of a *Constitution for Europe* had not been referred to by the EU itself before the Laeken Declaration (2001:24) announced: *this simplification and reorganisation might (...) lead in the long run to the adoption of a constitutional text in the Union?* Since a Constitution is referred to as *rules about the rules* that prescribe how collective decision-making processes are being constructed within a polity and that provide the people with general models of political community (Elster 1994 in Abromeit and Wolf 2005:2), it is reasonable to think that Europeans become especially engaged in what degree a European Constitution reflects their interests. As Estrella Pedrola, Representative from the Spanish Parliament described the ECT: *It establishes the institutionalisation of the Union's symbols; together with flag and hymn, the ECT unites the Union's diversity* (CO 08/02/05). The name of the document is assumed to have spurred a distinct type of debate which might even have generated a change in Spaniards' self-conceptions as Europeans. Its symbolism triggered perhaps the establishment of a *European demos* within the Spanish society.

Finally, the Spanish people are known for its pro-European attitude; their Europeanism. Since the Spanish referendum can tell us about the sort of legitimation Spaniards grant the EU, it is opportune to make an assessment on their positiveness. What founds the positive Spanish attitude? It is possible to construct some assumptions on why Spaniards have a europhile posture. Some social, cultural and political features play a special role to the Spanish people. These features give explanations to why there are different conceptions of the EU's legitimacy. It seems like three criteria decide which view of the EU's legitimacy is adopted. They generate from the EU's efficiency, values and rights.

1.2.1 A beneficial and efficient membership

Spaniards might assess EU membership as advantageous and their interests are based on utility calculations. The background to such an assumption derives from the fact that Spain has received a considerable amount of EU funds since joining the European Community in 1986. From 1986 to 2005, Spain received more than they contributed (Torreblanca 2005b:8). Spain was the main recipient of EU money until the aftermath of the Eastern Enlargement⁴. The positive balance meant an average return of €1.85 for each euro Spain has contributed to the budget (ibid). After the Enlargement, Spain was promised more influence in political terms as compensation. If we take Spain's gainful position into consideration, we can assume that Spaniards expect to continue to profit from the membership and believe that by approving the ECT, the chance for fulfilling this anticipation will increase.

However, some have claimed that *Spain (...) ran the highest risk of losing at least 30 per cent of (...) structural funds from the EU with the ECT* (EP 26/12/04). Spain's Government met problematic economic issues before the referendum concerning this distribution of the agenda 2007-2013 (Torreblanca 2005a:3). Since the Enlargement, Spain had experienced a loss of financial help from EU institutions partly because the average income for the Spanish population in 2003 was representing 87% of the average income in the EU (Torreblanca 2005b:3). With 10 poorer members, Spain's per capita income amounted to 95% of the EU's average. This led to that Spain lost its entitlement for Cohesion Funds (ibid). The ECT implied further negative consequences on Spain's political role and it did not change Spain's future as a net contributor. Compared to the Nice Treaty, Spain's quotas of votes in the European Council was reduced from 11 till 8 per cent (ABC 20/06/04a; SH 18/02/05).

⁴ http://www.cidob.org/castellano/publicaciones/Anuarios/2003/18anexgastosue_271-273.pdf (2006, January 3).

Assuming that Spaniards have tended to associate EU membership with economic and political progress which has decelerated lately and was not improved by the ECT, it is somewhat remarkable that more than three quarters of the voting Spaniards said Yes. If the Spanish people had based their conception of the EU cooperation only on its utility and economic benefits, the referendum in February had been a worthy opportunity for them to express dissatisfaction with the economic and political cuts Spain experienced. Certainly, the silent public might absorb a certain number of discontented Spaniards. Still, Spain's reduced weight in the EU together with an almost 77 per cent approval, do not intuitively lead us to think that the Spanish people view the ECT as a gainful move. There must be other purposes and other ambitions with the ECT that formed their Yes. As such, there is undoubtedly a need of further assumptions on why they supported this proposed Constitution.

1.2.2 European identification

It has been claimed that the European cooperation needs a broader perspective than based on material gains if it is not to decay into a mere market (Habermas 2001:9). An increasingly held notion is that EU members seek more than just economic benefits from the Union. They seek a community where identities are unified and where different cultures and common values are integrated and agreed upon (Eriksen and Fossum 2004:6). This leads us to the second view that explains the Spaniards' strong affiliation to Europe. As Carlos Closa (2001:2) described Spain's political relation to Europe: *It is deeply rooted in a historically constructed perception that takes Europe as point of reference for the Spanish identity itself.*

It can be detected two reasons to why the Spanish people feel such an affiliation to the European identity. On the one hand, Spain's relationship to Europe was until Franco's death dominated by an impression of being different from the rest of Europe (Closa and Heywood 2004:31). Religion is believed to have had a powerful influence on preventing the Spanish society to modernise at that time (Closa 2001:2). After Franco, wish for economic and political progress arose, for European recognition and for inclusion in common European form of life and shared cultural traditions (Morán 1993:286). With EC/EU membership, a European dimension accelerated in consolidation of democratic beliefs and attitudes among the Spanish population (ibid:287). This European identification is believed to still be developing progressively. Spain has experienced the closest link *between its own project for national regeneration in this century and European integration*, where Spanish and European identity are seen as a developing symbiosis (Closa 2001:6).

On the other hand, there are basic values ingrained in specific groups in Spain that make them identify strongly to their regions. These people are believed to consider themselves as more European than Spanish. In the Basque Country and Catalonia, there is a cultural and linguistic distance to the Spanish State. They are *historic nationalities* that have a strong sense of regional identity (Closa and Heywood 2004:84). It was with the EC-membership that these regions were enabled to express regional identity feelings which had been severely repressed by Franco's regime (Morán 1993:287; Encarnación 2001/02:36). A European identity and adherence are assumed to be desirable for these regions because they see that the EU recognises their cultural foundation and acknowledges their regional identities (Closa 2001:12; ECT 2004:89). Hence, since the EU has assigned an active role to regions, which has progressively grown (Closa and Heywood 2004:83), it is assumed that the Catalans' and Basques' affiliation to Spain as a nation is more remote than to the European community.

All in all, Spain's historical self-centrism, regional affiliation and its political effects are believed to be key factors that connect the Spaniards to Europe. This relation is believed to be influential and important in determining how much of a European identification exists in the Spanish hearts. The approval of the ECT stems thus from a Spanish inclination to feel more European than before and from their desire to preserve this identification.

1.2.3 *A young democracy*

The third reason to understand the Spanish Yes is Spain's relation to democracy. The Spanish people have associated the EU with the end of isolation and with the transformation to democratic rule, liberty and fundamental rights (Jiménez 2005). The reason to this was the political transition from dictatorship to democracy in 1975 which was a turning point for Spain in political and economic matters. By the time of Franco's death, even Francoists regarded the authoritarian regime as an impediment to modernization and demanded a return to democracy (Encarnación 2001:42). Before Franco's regime, the country's only significant attempt at living under a democratic system was the brief and chaotic Second Republic in the 1930s (ibid:35). To obtain EC-membership in 1986, Spain had to re-establish an acceptable democracy and to pursue a stable political and economic set of policies. Spain chose democracy over industrial restructuring and proved which values had precedence (ibid:41).

Spaniards are believed to regard the EU membership as a symbol of democratic safety and political progress. Closa (2001:4) described the EU's strategy as enabling *the democratic*

opposition [against Franco] in Spain to identify democracy with membership of the EU. Due to the authoritarian past with Franco, Spaniards are believed to have a special need to defend democratic rights obtained through EU membership. The Spanish people are seen as ambitious in the struggle for democratic principles and the dispersal of these in the EU (Closa 2004:335). The regions are also believed to strive for European rights as a result of being politically suppressed under Franco and even now, someone would claim. Although the Spanish Constitution (1978:art.2) gave all regions rights to seek home rule, it is reasonable to believe that certain regions wish to be judicially recognised by the EU and recognise EU law rather than Spanish law. All in all, the Spanish population and especially the regions have lived a suppressed political life where fundamental rights were first introduced by the European community. For this reason, they are believed to connect justice, liberty and judicial security to European integration. This is also seen to engender a self-entitlement of being a European citizen. The third assumption is thus that Spaniards want the EU to obtain ascendancy over national rule in order to obtain more democratic rule and ensure the dispersal of fundamental rights. The ECT was viewed as a step towards this post-national EU system giving it a Constitution.

1.3 HOW TO DO THIS?

This study will be based on Spanish debates from prior to the referendum in February and where utterances made *in favour* of the ECT will be used as objects of analysis. The assumptions made above indicate plausible reasons to why the Spanish population approved the ECT. They serve as a guidance to know where and what to look for in the Spanish debates. With ambitions to fully comprehend the legitimate foundation inherent in the Spanish positive attitude towards the EU, the theoretical framework is presumed to conduct this thesis towards plausible and credible conclusions.

The reason to study only the Yes-arguments is twofold. The first is of methodological origin and implies that Yes-arguments are thought to indicate more clearly how Spaniards view the EU membership. The ones that argued against the ECT had a less detectable attitude and opinion about the EU. They often criticised the campaigns or the political parties. Similar to the French and Dutch debates, national politics tended to be more in focus in the No-argumentation. The second reason is that Spaniards had a good reason for voting No as a result of the decreased EU funds and the political loss within the EU Council the ECT would bring. This makes the Yes-vote more interesting to scrutinise.

The EU stands at a crossroads and the European constitutional future is uncertain. The political system is continuously in motion and it is not obvious how the peoples in the EU conceive of the entity's legitimacy. They might be envisioning the EU by emphasising its utilities, its foundation of common values or European rights. These three generate key strategies (or models) based on different rationality and they designate the EU with dissimilar legitimation. Spanish citizens that approved the ECT are believed to evaluate the EU polity with reference to its efficiency, identity or judicial framework (Eriksen and Fossum 2004:437). The models represent the theoretical framework used in the analysis. When Spanish Yes-arguments in favour of the ECT are applied to the theory, the models will elucidate on which terms the EU system is legitimate in the eyes of Yes-voting Spaniards.

The first model to legitimation is based on a means-end type rationality. This implies that an actor's strategy is directed by the results or outcomes that best reflect the actor's preferences. The actor maintains its right to veto and has the final say and decision-making power. The nation-state's membership in the EU exemplifies this model. The EU membership rests on indirect legitimation, meaning that as long as the Union serves its members by providing discernable benefits, the EU obtains legitimacy and the states stay in the EU. Democratic legitimacy is always recognised with the nation-state and retains with the nation-state. The EU membership is hence directed by pure instrumentality.

The second model to legitimation has its foundation in a value-based mode of rationality. This means that an actor's conduct and preferences are formed by norms and values that have derived from its surroundings. Here the actor's identity is being shaped while it feels increasingly adherence to its surroundings. Common traditions, values and norms that exist in the EU create a common identity and community of belonging. This requires that Spaniards clarify their values and use them to prove their adherence to the Union.

The third model, legitimation through rights, is based on mutual recognition and respect for the individual's uniqueness where political participation is motivated. Policy-makers must justify their actions through discourse in order to achieve a legitimate polity, and those affected by the polity must be included in the process. As such all policy-making relies on democratic rule where all citizens will recognise themselves as being right holders and authors of the law. By representing the diversity of the EU peoples' will and reflecting their opinion, the EU achieves democratic legitimacy.

2. Theoretical framework

The EU's legitimacy was presented and defined earlier but needs to be explained in theoretical terms. Traditionally the legitimacy of the EU has been related to its outcomes and hence founded on the Union's performance and utility towards its members. From a democratic perspective, the EU has been viewed as dependent on the Member States' democratic legitimacy. Recent institutional and political developments in the Union have rendered the intergovernmental mode of legitimation insufficient (Eriksen and Fossum 2004:441). The EU is said to be a community in its own right, which implies that it is no longer a sheer reflection of its members' political system (ibid; Fossum 2000:111). States have transferred and are still transferring core policy areas to the EU. This means that the European polity adopts some state-like functions (Wessels 2005:2).

On basis of this, a broad debate on what sort of legitimacy the EU actually represents today and will represent in the future has been initiated. Notably, those disagreeing on which is the correct legitimation mode often emphasises dissimilar problems (Eriksen and Fossum 2004:436). This explains why efficiency, values or rights are all answers to the questions of how to comprehend the EU's legitimacy and what principles it is based on (ibid:438). In the following sections, the three strategies to legitimation are explained. Each section will describe which expected Spanish contexts are allowing an application of the model.

2.1 THE PROBLEM-SOLVING VIEW ON LEGITIMATION

The problem-solving notion departs from an instrumental basis where legitimacy is recognised as the ability to solve problems in the way that best conforms to the preferences of a specific actor (Fossum 2000:113). The purpose lies in finding the most effective way to realise an actor's initial interests and in producing discernable benefits (ibid). As such, this strategy includes a calculating element that weighs costs and benefits instrumentally. It conceives of the EU as a functional organisation whose purpose is to solve practical problems that cannot be resolved by the Member State alone. The motive is to attain more efficiency in material and economic terms for the Member State. The nation-state has thus established institutional bodies like in the EU because it conceives of it as an instrument to achieve benefits. In this way the establishment of the EU is anchored in mere cost-benefit calculations (Fossum 2000:114). As we shall see, the problem-solving model focuses on

material structures as opposed to normative or social structures that are the key features in the other two models (Sjursen 2005:170). In terms of legitimacy, intergovernmental relations are regarded legitimate as long as they supply the nation-state with discernable and gainful output. The problem-solving strategy has thus a consequentialist view of how to legitimise the EU polity. This means that the EU's legitimacy is generated from its ability to make detectable outcomes and to work as an advantageous instrument for the Member State (ibid). If the EU membership does not provide sufficient results, each member can and will remove its support. This means that Member States maintain with decision-making power where *support for the EU is highly conditional* (Fossum 2005:5).

The problem-solving strategy further presupposes that the nation-state is the ultimate decision-maker in all intergovernmental relations. The state is a self-interested and utility-maximising actor which is driven by material instrumentality. The nation-state will still admit to collective missions and receive obligations from the community if they are to serve the state (Eriksen and Fossum 2004: 439). However, the EU is dependent on the Member States' willingness to transfer competences to its institutions (ibid). Only with authorisation from the members, which is often stated in treaties, the EU's working area is confined and delimited (Fossum and Menéndez 2005:100). When the polity of the Union serves the member, the EU is regarded as a legitimate system (ibid:101). This model has thus an intergovernmental underpinning. As democratic legitimacy is only associated with a nation-state, the democratic quality of the EU emanates from the democratic character of the Member States (Eriksen and Fossum 2004:439). The EU relies thus on indirect legitimation which means that the EU is a derivative of the Member States (Fossum 2005:5). Member States are continuously seeking to remain or enhance their autonomy, and can withdraw their support at any time. This makes the EU's legitimacy not as predictable and stable as the one of the Member State. As such, the EU does not represent a legitimate political system.

For the model to be applied to Spanish arguments there must be deliberation about the nation-state's interests and preferences. Does the ECT accomplish certain national needs? Through the calculus of costs and benefits, statements would refer to the tangible effects of the Treaty and evaluate these as beneficial to Spain. Arguments in favour of the ECT could also refer to improved knowledge and political efficiency that would cause positive turnovers for Spain (Fossum and Menéndez 2005a:101). The problem-solving notion would

also be emphasised if calculations about the nation-state's security. Treaty would then be considered as an instrument to prevent threats and violence from harming Spanish society.

As said before, it remains uncertain whether this model will be significantly emphasised in the Spanish debates. In the beginning of Spain's membership, in the 1980s and 90s, it was easier to identify the EU system to economic progress due to their political and financial improvements (Closa and Heywood 2004:186). That Spain went through economic decrease from EU funds and the ECT reduced Spain's political influence, were two well-known aspects prior to the referendum (ibid:193). It is therefore possible to imagine that this legitimisation mode may fall short of explaining the Spanish arguments. Perhaps those who traditionally perceived the EU within cost-benefit terms were forced to think of the membership in alternative ways. At the same time, it is not unlikely that Spain's overall profit from being an EU member stimulated people to still connect economic outcomes to the Union, but whose calculus would appear somewhat more indirect.

2.2 THE VALUE-BASED VIEW ON LEGITIMATION

This strategy to EU legitimisation is founded on the idea of a value-based community where there is a deep collective self-understanding of what the peoples' common identity, heritage and value basis are (Fossum and Menéndez 2005a:103). This model posits that a group of people is shaped and conducted by those ethical values and norms they have in common (Fossum 2000:116). This implies that a society is constituted as an ethical community where shared history, culture and memories that engender common values, are forming the individual's identity. One person's identity is thus based on the communally identity and is *part of an intersubjectively shared form of life* (Habermas in ibid:117).

The model further presumes that this community will engender an underpinning of cultural loyalty that leads to improved collaboration and alliance between the people. The value-community has a profound significance to the people because the companionship that exists here connects with their deepest feelings of adherence and loyalty (Fossum 2005:154). As a result, people are willing to admit obligations and duties that the community-life involves. The strategy also predicts that the common identity in the community builds the necessary groundwork to generate institutionalisation of politics that sometimes can go beyond state-level (Fossum and Menéndez 2005a:103). Throughout this process, common ethical values and norms are institutionalised into specific political parameters that render democratic

decision-making (ibid:104). This is done in order to protect the value-community's uniqueness (Fossum 2000:117).

Applied to the EU, this model uses the nation-state as a paradigm and presupposes that there will be a process of institution building at Union level. The EU is seen as an emerging entity that is something else than a state and more than an intergovernmental organisation (Fossum 2005:153). It predicts that an ended nation building process will form the EU in such a way that the people feel more allegiance to it than to their nation-state (Fossum and Menéndez 2005a:103). This is because the common values realised in the Union strengthen the sense of belonging to it. Europeans are assumed to have a shared culture based on common traditions and mores. This is the premise for a common European identity (Eriksen and Fossum 2004:441-442). In this way, the strategy tends to exclude people from the community more than to include them (Fossum 2000:118). It may appear difficult to apply the model as the EU is a multiplicity of cultures, but if certain shared values between these cultures are stressed, it allows application. Thus, its onus is on how established identities are maintained and not how new ones are created (ibid). As a result, the value-based model clearly defines who Europeans are. It uses cultural shared roots and a set of identifiable values as conditional frames to adhere to the community (Eriksen and Fossum 2004:442).

The strategy further posits that EU citizens realise that they share societal and political problems which can be solved more easily through cooperation. In this process, *trust* is needed which is only assured through a common identity (Fossum and Menéndez 2005a:103). Collective problem-solving generates bonds of solidarity where differences are evened out and conditions for deeper and more binding cooperation are enhanced (ibid). In other words, Europeans transmit their cultural and value basis into the EU community so that they create an adherence to it and form an identity built on a European community of values (ibid:104). The ones that fall outside this community of allegiance, who do not share the culture or values of the European identity and do not feel allegiance to the community, do not belong to it. The community of values of the EU creates thus harmony between allegiance and common identification (Eriksen and Fossum 2004:443).

The strategy presupposes that democratic legitimacy stems from the Union's own *particular set of common ethical values* and not from its members as the first model posits (Fossum and Menéndez 2005a:104). The Union becomes thus a value community that makes it possible to

reach democratic and legitimate policy-making and results at EU level. Democratic legitimacy is reached through deliberation on the common good for Europeans and through the establishment of solidarity bonds between them (Eriksen and Fossum 2004:443). However, the democratic notion of legitimacy is not only premised on common values, but also on a *will* of forging a European identity and of embracing collective obligations (Eriksen and Fossum 2004:443). The EU depends fully on the peoples' wish to create and form European collectivism (ibid). As Europeans must articulate a common will, the strategy leaves out judicial regulations to underpin the adoption of a common identity. In line with this, the strategy directs the EU to have a Constitution that is a symbol of a European identity and their common values (Fossum and Menéndez 2005a:104). The Constitution-making relies on a collective deliberation where *the peoples' roots of a pre-political community of values and a common identity* must be thoroughly and clearly reflected (Fossum 2005:154). In order to reproduce a true European identity and assure community adherence, the Constitution-making process must last over a longer period of time (ibid). When the Magna Carta is written, it will make obvious guiding lines as to who belongs to the community and whose values it reflects. Also, in the process of making it, those who feel committed to the Union and hence those who are and wish to be European, will be clarified (Fossum and Menéndez 2005a:104). The ECT is thus viewed as a way of underlining the Europeans' conception of belonging to a community where they share a European identity.

The challenge however, is to clarify what sort of value basis the EU polity is built upon. Which values and norms are mutual and shared between Europeans which were also inbuilt in the various groups from before? This is elucidated through collective deliberation if the people underline their sense of *Europeanism* and if values form this identification (Fossum 2005:154). This is why the strategy regards *a collective process of self-interpretation* as referring to self-aware European people that speak of and demonstrate which values they identify themselves with in the EU (ibid:153-154).

Spanish arguments that support this strategy will highlight a wish to belong to the European community. Such arguments will emphasise how the EU represents the groundwork for an identity that the person feels connected to. They conceive of the Constitution-making process to embed specific values that make their identity achieve recognition. As a result, they regard the Union as responsive to their cultural roots. Their wish to forge and strengthen the European identity must be based on already existing values of the Spanish population.

Arguments that further stress this model put emphasis on the EU as an emerging entity whose value foundation is recognised and inbuilt in a Spaniard's self-perception. The making of a Constitution might be referred to as a way to strengthen the consistency between the people's preferences and perception of norms and values. They will look at this as a proof of unity between the EU and them. Finally, arguments that underline a Spanish encouragement to submit Treaty commitments because they have a self-perception as being fellow citizens in the Union are also supporting the second model. Spaniards may regard the ECT as favourable before the Spanish Constitution as long as the ECT is considered to reflect their identity and is a better symbol of their values. Yet, they are not likely to allow judicial review that could cause adjustments to this legislation. It reflects the very foundation of shared historical values and sentiments that are would not change with the EU Constitution, but rather be fortified and revitalised.

2.3 THE RIGHT-BASED VIEW ON LEGITIMATION

The third model on how to regard the EU's legitimacy takes its point of departure in the individual as a right-holder. This implies that citizens of a political system conceive of themselves as the originators of the laws. As a result, laws become reflections of the public opinions and provide citizens with entitlements and obligations. Citizens will mutually recognise themselves as carriers of these laws. Respect for the individual, tolerance and self-autonomy are grounded elements in the polity. A collective *we-feeling* arises when there is a *mutual acknowledgment of the equal dignity of other human beings*, according to the model (Menéndez 2005:4). It predicts people to establish solidarity bonds and cohesion on the basis of seeing each other as equal rights-holders within the same judicial framework.

The right-based strategy is further premised on democratic procedures, as in a *procedural notion of legitimation* (Eriksen and Fossum 2004:445). For the political system to reach legitimate decisions, genuine preferences of the public must be reflected in its laws. EU decision-makers are dependant on a workable public that is free for political influence or manipulation. Citizens that feel affected by the polity have the right to participate, justify and deliberate on what they find rightful and wrong. They must also consider what to be implemented in the law (ibid). This makes the political elite become aware of which stipulations to be pursued when laws are made, while citizens become cognisant of which entitlements they have (ibid). This forms the reason why the political system will be part of a *wider cosmopolitan entity* in the end of a complete institutional process (ibid).

When applied to the EU, the model envisions the organisation to be a building block in the development towards a federal, post-national political entity. This institution building is stimulated by the EU's capability to affect Europeans with its decisions (Menéndez 2005:2). The polity will continuously adopt national and regional judicial frameworks which results in a strengthened European legal system (ibid). In the end, it will have obtained full ascendancy over national and regional laws. Its political decision-making will thus exert serious influence on the Member States and on their citizens (Eriksen and Fossum 2004:446). EU citizens do then rely on a constitutional polity that supplies them with a set of legally entrenched fundamental rights that protect them (Fossum 2005:160). Only when they feel that their identity is embedded within this set of social, political and civil rights, they develop a sense of EU adherence and identification (Habermas in Fossum 2005:160). This is what creates a European *demos* and a collective *we-feeling*. The model's premise lies on an active public that is politically engaged because they are affected by the EU laws.

A European *demos* refer to those who are entitled with rights granted by the EU. Common values are created after the reciprocal recognition of who the right-holders are. The sense of community in Europe stems from being a right-holder and not from common ingrained values as the second model presupposes. The right-based strategy can therefore be said to provide a less strict frame of who belongs to the EU. Anyone who recognises the EU's democratic procedural arrangements and conceive themselves as reflected in the polity's judicial framework, are entitled to call themselves European citizens. An EU citizenship provides people with *the ability to rule over one's equals and to be ruled in turn* (Eriksen and Fossum 2004:446). This prerequisite stems from the model's emphasis on acknowledging equal dignity, respect for other human beings and its emphasis on the individual's private and public autonomy (Menéndez 2005:4). Private autonomy implies that EU citizens have the right to exert influence on the EU's political system directly or via their representatives. Public autonomy refers to citizens' right to be protected by EU law to criticise the polity. These components are seen to intensify the *we-feeling* among Europeans and thus strengthen the right-based political community (Fossum and Menéndez 2005a:106).

In the extension of this, the EU stands before a multitude of public opinions that are all supposed to make influence on decision-making processes within the Union (Eriksen and Fossum 2004:445-446). Here, the model confronts a dilemma between maintaining the democratic legitimacy a public representation involves and the inefficiency such a multitude

of opinions engenders. The model resolves it by directing the EU's polity to have a constitutional structure that is based on *uniquely European rights and principles and that are normatively uncontroversial* (ibid:447). This results in why this view on legitimation is dependant on a flexible Constitution that is sensitive to the public voices at all times.

Further, the strategy directs the EU to have a Constitution that is responsive and tolerant towards the European multiplicity (Fossum and Menéndez 2005a:110). It is dependant on thorough up-datings and complex procedures in order to reflect the general public's needs (ibid:109). The EU polity is seen as a fusion of national legal systems and it reflects their Constitutions (ibid). The citizens' obligations towards their national Constitutions and those rights submitted in national law must be reflected in EU law as in the ECT. The different wills and identities are reflected throughout a process where all citizens affected by the law are taking part in the forming of it. This process is referred to as a *constitutional moment* which is required in the adoption of a right-based Constitution (ibid).

The arguments that are presumed to support this legitimation mode point to a *post-national* European entity. Spaniards' will see themselves as right-carriers and not only as the addressees of EU law. Some times, Spaniards will even view their identity as based on EU rights and thus call themselves European citizens. However, if the EU is seen as an authority that constitutes responsive and sensitive rights towards Spanish preferences, the right-based model is emphasised. Spaniards must also feel included through mutual deliberation between EU elites and the public, as in ensuring and protecting their private and public autonomy. Arguments will further include clarification of which obligations and duties Spaniards are committed to in EU law. Finally, if the EU is looked upon as a system that involves different cultures and recognises them despite their differences, the entity's including elements will allow application of the third model.

It might even be mentioned that the EU polity is *the* authority entitled to grant rights to the Spanish people. In this aspect, the Spanish people are self-conceived rights-holders which indicate that there is reciprocity from the EU's judicial framework. These rights are not only protecting them, but they admit to be ruled in turn so that other EU citizens with conflicting interests or identities are also protected. When the EU establishes a framework that is seen as constitutive of Spaniards' preferences, they are assumed to develop allegiance to the Union.

3. Methodology

What would be the best way to answer the key question of this thesis? What data describe the Spanish people's conception of the EU's legitimacy? How is the researcher able to select a representative statement? These are among the questions that will be answered in this chapter. A good research with reliable conclusions requires thorough methodological considerations and evaluations before the analysis takes place.

This analysis has no intention to evaluate all arguments that were made in favour of the ECT. It is a single case study that does not have the ambition of generalising to populations or universes, but rather arriving at theoretical propositions (Yin 2003:10). Its ambition is to study the typical reasons for voting Yes and in order to do that, certain methodological tools must be used. These will enable us to create a selection of statements which is predicted to be founded on representativity, consistency and validity. If the three models are sufficiently specified, it is easier to apply them to the collected data.

This research will make use of both qualitative and quantitative cases. Even though both types are predicted to reveal contextual conditions in relation to why Spaniards voted Yes, the quantitative data (the questionnaires) runs the risk of displaying only fractions of a person's argumentation. In order to better understand the quantitative answers, previous studies and the qualitative cases are thought to credit or discredit them. This enables us to increase the accuracy of the quantitative cases which also happens vice versa.

3.1 RELIABILITY – TO REFLECT THE TRUTH

The extent a source of evidence is able to reflect reality tells us about its reliability. The same counts for this case study. If it is able to reproduce a true picture of how the Spanish Yes-argumentation was, the reliability of the study is strengthened. So, if the researcher makes use of sources that are biased and selects a statement that is not representative for the population, the study's reliability weakens. First of all, we will have a look at how the selected cases can be understood as representative of the universe. Then we evaluate the reliability of each type of source. Finally, we will look at how statements were selected.

3.1.1 *The representative statement*

In order to arrive at reliable conclusions, one must be able to repeat the analysis and end up with the same results. To accomplish this, the researcher must select representative statements that are believed to actually reflect general positions in society. It is presumed that the political establishment is representative for the rest of the Spanish population. The reason for this will be presented below.

How do we know that the political establishment channels the voices of the general public? Naturally, there lies no certainty to this prediction, but there are several indications that point in that direction. First, as stated earlier, that was poor knowledge of the ECT among the Spanish people. This observation gains more emphasis when Spain proved to be number three in the EU with the least knowledge of the Union (EC 2001:17). This urges us to question whether the Spaniards knew enough about the ECT in order to defend their position. Second, the referendum was not binding, but it was a consultation to the people. Spanish parliamentarians had already voted and decided Spain's position towards the ECT (Torreblanca 2005b:3-4). This might have engendered Spanish voters who were less involved in the actual contents and meanings of the constitutional text, as it was not for them to decide. Third, during the ECT-campaigns a significant number of Spaniards confessed that their political party's vote was decisive on their ECT-position⁵ (CIS 2005:P11b; Report 2005:Q3). Previous CIS-studies reveal that Spaniards maintain a relatively high degree of faith in their political representatives which may emphasise this point⁶.

Fourth and finally, the campaigns were criticised of being too little informative about the ECT. It was also claimed that a *lack of internal debate in parties, unions and NGOs* resulted in poor and shallow discussions on the issue among the general public (ibid:5; Madroñal 2005:15). What may support this fourth perspective is the number of times the ECT was mentioned in El País compared to the French Le Monde. The count was made from one month before each referendum. While El País referred to the term 508 times, Le Monde did it 1214 times⁷. This may emphasise the claim that there was a lack of public commentaries and official debates on the ECT in Spain.

⁵ [http://foros.ya.com/SForums/\\$M=readthreadrep\\$TH=3818929\\$F=24\\$ME=9742446](http://foros.ya.com/SForums/$M=readthreadrep$TH=3818929$F=24$ME=9742446) (2006, April 24)

⁶ See CIS Barómetros 2004, 2005a and 2005b in chapter 10; *Sources*.

⁷ The exact measurements are further outlined in chapter 10; *Sources*.

On this background, it is possible to imagine how the political sphere were as a precursor of what to think about the ECT and how to argue. As the majority of the main political parties and organisations were in favour of the ECT, it is assumed that the general public was often persuaded by campaigns and propaganda all the way to ECT-endorsement. This enables the researcher to select more statements from the political level than from the general public, without running the risk of making a selection that does not ensure representativity.

3.1.2 Newspapers, the Congress and questionnaires

If we look at the most frequently used sources in this analysis, the Spanish newspapers, their reliability depends on how subjectively informed they are. El País, El Mundo, ABC and La Razón were the newspapers that provided the study with articles. El País is Spain's leading and most influential newspaper with the highest circulation of 450'000 daily⁸. It supports the Socialist Party in power today, PSOE, and thus represents the opinion of the largest part of the Spanish population at a relevant time. ABC and El Mundo, notably less used in this study, are the second and third biggest newspapers in Spain. While El Mundo is placed in the middle of the political spectrum tending to oppose PSOE, ABC is conservative, monarchist and with clear PP-orientation (ibid). La Razón has also been said to be a conservative and PP-supporting newspaper that deals with topics related to the world economy. Since El País is the biggest newspaper and supporting the governing party, it was seen as necessary to include at least two PP-oriented newspapers in order to cover the whole spectrum of Yes-voting Spaniards. El País has also got a regional section for the Basque Country, Catalonia, Valencia and so on which let the different regional parties come into focus. For this reason, it was seen as unnecessary to include regional newspapers.

These newspapers have the highest circulation in Spain which tells us that the majority of the Spanish population reads them. This is seen as a proof of reliability as they are forced to present trustworthy articles with reliable and objective facts in order to keep their readers. However, a journalist does always run the risk of not portraying a complete picture of a person's attitude. The journalist may refer precisely to what is said, but miss the overall context in which the debater is situated. This makes it extremely important for the researcher to evaluate the contextual conditions as good as possible to be able comprehend the true attitude of the person who argues.

⁸ <http://www.guardian.co.uk/international/story/0,3604,1327888,00.html> (2006, April 20)

The Socialist Party occupies perhaps more space in El País than other parties. While PSOE is perhaps given a favourable image, the rival party, PP, is perhaps looked on with critical lenses. However, according to the Economist, El País is a *deeply serious new daily*⁹ and according to an international survey from July 2006, El País was ranked as number nine as the world's best newspaper¹⁰. So, considering this good reputation, it is assumed that El País is a fairly objective newspaper. Because of this, El País has been chosen as the most used source in this analysis.

Debates from the Spanish Congress are also sources of evidence used in the analysis. Compared to the media's reliability, these debates are seen as more reliable because they are direct reflections of what the debaters utter. The researcher must of course make sure that she translates with utmost precision and is prepared to evaluate certain terms with extra carefulness. This will be further outlined as a concept of validity. Five sessions from the General Courts were found treating the ECT as an issue of debate. The debaters represented Spain's different political parties and worked some time as a testimony on what the newspapers had presented as their opinions. The Senate on the other hand, was far less used as a source. After going through the summaries from the Senate sessions, none of them seemed to involve considerable discussions about the ECT. Out of 26 sessions, from early April 2004 until February 2005, only four involved references to the ECT. Then, only one of these portrayed a type of Yes-argumentation in favour of the Treaty (SN 25/05/04). Again, it is demonstrated how little the ECT occupied the Spanish public room for discussions.

Finally, this analysis makes use of three questionnaires that handled the referendum in Spain and some previous studies made by Eurobarometer. Are they reliable sources? They are of repute origin; Spain's Center of Sociological Investigations (CIS). The Report is together with the previous studies produced by the EU's Eurobarometer. The reason for including previous studies from Eurobarometer is to increase the reliability of the findings from the three available Spanish questionnaires. They may discredit the result from the questionnaires or they may confirm the suggested attitude.

⁹ http://www.economist.com/world/europe/displaystory.cfm?story_id=E1_TGRPSNJ (2006, September 26)

¹⁰ <http://www.worldmagblog.com/blog/archives/015748.html> (2006, September 26)

3.1.3 Selection of statements

The procedure of finding and selecting the statement must also be explained in order to increase the study's reliability. Before the analysis started, the researcher had to achieve a fairly complete picture of the different Yes-arguments both on the political and public level. The goal was to get an idea of what were the frequent issues and which terms were used in the Yes-argumentation. These allowed the researcher to notice common arguments and thus observe the typical terms that could emphasise the models. In the end, these statements were divided on the basis of their origin. On one side, there was *the political establishment*. This was divided into the different political colours and some times regions. It is presumed that each political party represents one shared opinion about the ECT and the EU. It would be easier to deduce which legitimization mode they emphasise when they are analysed together.

On the other side, there was *the general public*. The first category refers to Spaniards who belong to a political party or who have belonged to one in the past. The second category refers to professors, analysts, lawyers, members of different organisations and the ones represented in the questionnaires. At random, utterances from the general public were found on the internet when searching for reasons to vote Yes, but it was complicated to find the opinion of the very grass roots of the Spanish population. The questionnaires became hence the best reflection of the general public. Professors, lawyers and people with increased knowledge about the EU represent another layer of society that may channel the opinion of the ordinary Spaniard. By looking at representatives from both the political and academic sphere, the study is predicted to cover a considerable part of the Spanish general voice.

How did the researcher develop procedures of selection? To start off with the most frequent used source, there were some simple limitations to be made to the electronic archive of El País. When the term "Constitución europea" was searched for, there was a hit on more than 2600 articles. First, the time period was determined. In July 2004, José Luis Rodríguez Zapatero officially introduced that his Government wanted an indication of the public's opinion of the ECT and manifested the referendum day. Thus, this was thought to be a proper date to start the search. The voting day, 20 February 2005, was put as the final search day. With this time limit, the archive offered still more than 1300 articles. The researcher faced a too large number of newspaper articles. The search was then limited to certain themes. The search led to 476 articles on "España", 91 on "opinion", 19 on "economía", 13 on "sociedad", 3 on "cultura" and 0 on "gente" (the latter meaning people). As the amount of

articles on “España” was so high, the search was further limited to count only the title and the subtitle. The outcome was then reduced to 88 articles. “Opinión” was not limited because this is seen to give the best illustration of people’s viewpoints and of their argumentation.

Finally, this total number of articles, 214, was briefly scanned and as nearly half of them were not relevant to the Yes-stance, the quantity of findings was manageable. However, only a handful of them were used in the analysis. This selection was based on the article’s degree to reveal a person’s reason for voting Yes. It was not unusual that politicians urged the public to vote Yes, but left out a clear explanation of why. Such an utterance does not permit application of either the models. Unless no other statements from the same person were found, this source was usually omitted. Since the Yes-stance involved the biggest national parties, PSOE and PP, and some regional parties, these occupied the majority of the articles and hence became the most used sources in the research. The articles that presented the party leader were usually preferred because they were thought to be the most representative of each party, but also ex-ministers or other core politicians were of interest. This procedure of selecting particular utterances in El País is believed to be a well-considered and reasonable method to bring about useful and representative statements. The selection is therefore considered to ensure the study’s reliability.

Finally, the researcher makes use of archives, newspapers and questionnaires that are written in Spanish and sometimes Catalan. To use such primary data is seen to increase the study’s reliability because they reflect the Spanish scene directly. If the researcher had been forced to use secondary data, i.e. translated into English, the researcher could not be certain of the translation’s reliability. In addition, being able to use primary sources has equipped the study with an increased number of available sources. With assistance from Sonia Piedrafita and Fernando Losada Fraga, accurate translations have been endeavoured¹¹.

3.2 VALIDITY – TO MEASURE CORRECTLY

It is an essential part of this analysis to be able to see the link between the theoretical and empirical world. In order to do so, the theoretical framework must be made as clear cut and comprehensible as possible. This treats the concept of *validity* in the analysis. If the models are precisely defined, it is easier for the researcher to acquire operational and relevant data.

¹¹ These two work in collaboration with ARENA. They are Spanish students with considerable insight in the ECT referendum in Spain.

This facilitates the application of the models to the empirical world (Yin 2003:35). Which measurements may help us close the gap between the three models and the Spanish debate?

3.2.1 *Clear cut models*

First of all, as chapter 1.2 indicated, there are certain assumptions of why Spaniards voted Yes to the ECT. Together with these, each of the chapters in the analysis will start off by posing core questions that are meant helping looking for relevant and measurable statements. These questions take up vital elements in each model and thus specify their field of application. As a result, it is predicted that the operationalisation of the three models is facilitated. In the following, some highlights of the empirical cases are described in order to avoid an indefinite procedure of theoretical application.

The researcher confronts a challenge when the case does not thoroughly explicate the meaning of a term. This is especially relevant for the quantitative data, but nonetheless, it is also important in the translation from Spanish to English terms. As an example from the questionnaire, is the question: *Do you think the Constitution will be very good, good, not good nor bad, bad or very bad for Spain?* When 50 per cent answers *good*, this does not tell us enough in order to be able to apply one of the strategies. The researcher must be alert to how a term or expression may be interpreted in different ways. As for the language, words like “*nación*” and “*pueblo*” in Spanish do not necessarily refer to *nation* and *village*. “*Nación*” is also used to indicate a regional or local system. This is also the interpretation of “*pueblo*”, which can also refer to a smaller population that has shared culture or language. When translating the arguments, such differences ought to be detected and explained.

There are certain terms that are expected to belong to one of the models. One of these terms is *citizen*. Is it legitimate to always consider this term to involve a citizen’s rights within a judicially structured system? Is it possible that this term may be used by people that do not know its exact implications? An example of this comes from the General Secretary of the Socialist Group, Diego López Garrido. He said *the Spanish people will vote Yes because the EU [is] a political entity that no longer is for the elites, but for the citizens of Europe* (EP 18/02/05a). Could he not refer to the *peoples* or *populations* of Europe and therefore make it less reasonable to apply the third model to the case? Again, during the analysis, it is a salient point to grasp the underlying notion of the article and the person’s general attitude.

Even if the theory is precise enough, the analyst must be prepared to allow more than one model to be applied to a statement. Despite how inconsistent it may appear arguments are sometimes underscoring more than one legitimization mode. An example from El País (30/01/05a), pictured the ECT to create an *improved Spanish welfare system, strengthened democracy, individual liberty and social rights*. While the focus on improved welfare situation in Spain allows an application of the first model, the two latter concepts point to the third model. *Strengthened democracy* is a vague term that could either refer to national interests or to the European institutional structure. This challenge is resolved by underlining the ambiguity of the statement and then evaluating the general approach in the article. If necessary, other utterances from the same person might elucidate its posture. However, the researcher must bear in mind that the purpose of this study is not to pinpoint necessarily *one* model to reflect the statements from a person or a party. The ambition is to perceive an overall picture of what sort of legitimization of the EU formed the Spanish Yes.

With these considerations in mind, the methodological distance between theory and reality will shorten which implies that the validity of the study increases. There are still some measurements connected to the researcher's own capability of judgment. If they are sufficiently corrected, the analysis will also obtain more validity.

3.2.2 Subjective inputs

It is predicted that especially the analysis of the quantitative data will involve a great risk for subjective assessment. As explained above, this type of source offers questions and answers that often lack precision in relations to terms and general opinions. They often miss out the individual interpretation of the expressions used in the questionnaire. While the CIS questionnaire from 2005 was performed through personal interviews in the homes of the respondents, the one from 2004 and the Report were carried out through telephone interviews and some times assisted by computer. These two methods are believed to put the interviewee in a situation that affects him or her in a particular way. One consequence of being interviewed face to face is that the respondents may answer in such a way that makes them appear more enlightened than they really are. Their answer may also be presented more interesting. The interviewees' answers are also determined by what is socially acceptable or expected. Such elements connected to the interview design must be considered in order to avoid incorrect measurements of a person's position (Hellevik 2003:362). Considerations like this must frame each assessment of the quantitative data to strengthen concept validity.

This contextual effect does also appear when the surroundings of the specific utterance affect the person. If the researcher takes these into consideration, the argument appears perhaps differently which may change the application of the models. If this effect leads to systematic measurement errors, it threatens the validity of the study. Were they random measurement errors, they would weaken the reliability. However, one example is the Prime Minister of Spain. He was expected to bear a problem-solving attitude when he said: *Spain has with the ECT an opportunity to develop into one of the economic leaders in Europe* (ZAP 17/10/04). What is important here, is that the question left Zapatero little room for arguing differently: *Would a Yes imply less economic advantages for Spain?* He was partly forced to formulate an economic benefit for Spain in order to sound reasonable. Consideration like this must not hinder the researcher to evaluate the Prime Minister's statement within the first strategy. The point is to emphasise on the contextual circumstances in order to obtain correct measures.

Finally, the researcher is faced with a responsible task of allowing subjective evaluation and avoiding personal prejudices. At the same time, the researcher must be conscientious about her wish to connect the findings to one of the models. It is not always reasonable to permit application of the strategies.

4. The strategies applied to Spanish statements

In the following three chapters, three models will be applied to Spanish statements. Although my ambition is not to portray a complete picture of all Spanish Yes-arguments, my intention is to select the most representative arguments or statements, and to find out which of the three legitimization modes fits best with these. The basic question is thus; to what degree are the three models being expressed in the Spanish statements? It is anticipated that the selected sources do not always allow full application of the strategies and that this process requires analytical skills. The researcher must also allow critical scrutiny of the models and always be aware of the representativity of the source. In relation to all this, it is considered necessary to reach a general understanding of what sort of political setting framed the Spanish debates and statements in favour of a European Constitution. Such an overall picture is believed to make the analysis of Spanish argumentation more comprehensible for the reader.

4.1 THE SPANISH POLITICAL CONTEXT

The referendum was announced in July 2004 by Prime Minister Zapatero, whose socialist party PSOE strongly advocated an approval of the ECT. The Government soon achieved support from the main political parties and there were no significant EU sceptic interest-groups (Keohane 2005:3). The two large central Unions, the General Union of Works and the Confederation of Workers' Commission supported the Yes-camp¹². In spite of widespread propaganda that was mainly in favour of the ECT and the ample Yes-stance among the elite, it was claimed that serious public debate was not initiated until a few weeks before the referendum (Madroñal 2005:4-9). Not until 13 January, the official campaign for the referendum was initiated and three days later El País, El Mundo, ABC and La Razon presented a free copy of a translated ECT to their readers¹³. The same day, Zapatero reconsidered the non-binding referendum to become binding which was probably intended to stimulate the Spaniards' interest about the Treaty (ibid:7).

A reader's letter to the director of El País uttered appreciation for finally informing about *the real advantages and disadvantages of the ECT to a normal citizen, because the truth is that*

¹² <http://www.robert-schuman.org/anglais/oec/espagne/referendum/default2.htm> (2006, April 25)

¹³ <http://www.robert-schuman.org/anglais/oec/espagne/referendum/default.htm> (2006, April 25)

we know more about the Ibarretxe Plan than about the Constitution (EP 14/01/05a). According to José Ignacio Torreblanca, who published an analysis of the referendum 21 February 2005, *political campaigns have failed miserably to help citizens establish the link between the Europe they know, feel and want and what was in the Constitutional text. The vote of confidence has therefore been transformed into voting blindly*¹⁴. Oñate et al. (2005:3), who wrote a paper on the ECT in Spain and France, claimed there was no *true social debate about the Treaty*. As emphasised in the Methodology chapter, there was a high rate of unawareness about the Constitution. This was among the opposing party's main messages. In Congress speeches, PP criticised PSOE and emphasised that it had done nothing to stimulate public debate. This led to fewer EU related arguments from the PP-stance.

An interesting observation, however, is that these two opposing parties agreed to support the ECT. PSOE, the governing party in Spain since 14 March 2004, is PP's main opposing party. According to Closa, their view on Spain's European politics is considerably different (Alvarado 2005). This was commented in the Congress by a PP-politician Arístegui y San Román. After expressing distress about Spaniards' unawareness about the ECT's *effects, advantages, transcendence and content*, he argued that the general public had to notice the consensus between PP and PSOE (CO 25/01/05). That they maintained the same posture *had a symbolic value in itself, which poses a good example of how good this Treaty really is*. General Secretary of PSOE, Garrido called their cooperation as *following a constructive line* (ibid). What does the two opposing parties' consensus tell us? It illustrates that the interest for the ECT surpasses internal boundaries and a willingness to disregard their diverging views on Spain's integration policy in the EU. It would have been an apt opportunity for the Popular Party to take advantage of the situation and gather support against the ECT and against the party in power. How are we to interpret their consensus in relation to the theory? Does it reveal national interests or does it expose European adherence? In order to answer these questions, we must take a closer look at how the two parties argued in favour of the Treaty. It will be seen that their way of approaching the ECT had considerable contrasts.

¹⁴ <http://www.realinstitutoelcano.org/analisis/701.asp> (2006, February 03)

5. The problem-solving strategy

In this chapter, we will look for statements that highlight the first model. The purpose is to establish to what degree this conception of legitimacy is supported by the Spanish people. It is possible that some statements will engender doubt and thus need deeper interpretation as assumed in chapter 1.2.1. In line with this, it is important to evaluate and give emphasis to the context in which the specific utterance is made. Is the statement representative of the person's position? Before looking at the application of the problem-solving strategy, there are some core questions that must be posed through this analysis. Does the statement describe the EU or the ECT in economic terms? Does the argument reveal a calculating attitude towards the EU? Do they think of the Treaty in cost-benefit way? Does the argumentation involve national interests? Do they conceive of the ECT in a security framework which highlights a concern for national interest?

5.1 THE POLITICAL ESTABLISHMENT

The following findings allow application of the problem-solving strategy. They are divided into political colours: the socialists and the conservatives. None of the regional parties argued in such a way that emphasised a calculating idea of the EU.

5.1.1 *The Socialist Party - PSOE*

Prime Minister Zapatero is the first one to be evaluated. Quite early in the Spanish debate, in October 2004, Zapatero was interviewed primarily about ETA where two questions about the ECT arose. He first answered: *When our society has been guided by Constitutional and Europeanist principles, it has advanced in every field.* Then he was questioned about the ECT's economic advantages for Spain. He answered: *We have experienced an important economic growth, and many thanks to European help. We will maintain this help, but we have to bear gradually our quote of solidarity towards the countries that enter. This will also bring benefits to Spain. We have the potential to develop into one of the leading economies in Europe (...) compete with the most important powers in the Union* (EP 17/10/04). In one way, Zapatero's answers seem to be directed by national interests, since he talks about how Spain will *benefit*, *advance* and *compete* with Europe. These terms are calculating underpinnings. In another way, Zapatero mentioned *Europeanist principles* and *solidarity*. This would rather indicate an adherence and moral commitment to Europe which point

towards the second model. However, even though he describes a community-feeling, he quickly puts focus back on how this can be beneficial to Spain. The motivation appears thus to be about benefits and not on allegiance. His answer is therefore seen as underpinned by national interests. Nevertheless, we ought to consider the contextual relations. He was questioned directly about economic benefits which may have forced him to point at tangible effects. Hence, there are some uncertainties connected to this application.

One month later though, Zapatero gave a speech about the ECT where he confessed that despite knowing a lot of reasons to vote Yes, there were two reasons of great importance to him. While the first was that *Europe represents peace, democracy and security*, the second was *if Europe advances Spain progresses (...) and the ECT will spur such a European advancement* (ZAP 14/11/04). Spain's progress was referred to as the EU's financial aid that had financed 40 per cent of Spain's motorways. This could highlight the first strategy if Zapatero really predicts future economic progress for Spain with an approved ECT. Or he might just have pointed at this help as a way to become aware of that Spain ought to show appreciation to the EU. Nevertheless, if we look at his first reason, this does *not* seem to allow an application of the first model as he focuses on how *Europe* would benefit from these privileges. With this, he shows concern for Europe's progress as it involves values for all Europeans. So, the final interpretation would be a vague application of the first model while a somewhat clearer application of the second. That he allows Spain's progress to be the second important reason for supporting the ECT indicates though a certain significance of conceiving the Union within cost-benefit terms.

Then, in another interview three days before the referendum, Zapatero claimed that a Yes to the ECT would *be a good ticket for Spain in times of negotiating on the Stability and Growth Pact and other financial aspects in the coming years*¹⁵. Here, he is assumed to refer to the EU budget negotiations for 2007-2013¹⁶. It appears as strategic to accept the ECT because it will give Spain a more powerful say in future negotiations on financial support from the EU. While this may reveal a concern for Spain's economic interests, we have to consider that the Prime Minister was questioned specifically about the financial aspects of the ECT. For this reason, is not evident that he perceives an ECT-support as a way to achieve benefits.

¹⁵ <http://www.lukor.com/not-esp/nacional/0502/17111855.htm> (2006, March 08)

¹⁶ see Torreblanca and Sorroza (2005)

In the same interview, Zapatero portrayed the ECT with uniting and strengthening effects on Spain. He said *with the ECT there will be no more wars or dictatorships, because the ECT is the definite proof of peace in Europe*. The ECT was referred to as a more unified Spain and a safer Spanish and European society. Furthermore, in a speech directed towards the Basque Country, he said that *the Treaty would put an end to geographical confrontations (...) where grand shared values between identities, cultures and languages would ensure peaceful coexistence* (ZAP 15/01/05). Wars may be related to Spain's 11 March-attack, dictatorships may spur memories of Franco's regime and the last comment is most probably pointing at Spain's problems with ETA. In one way, these statements emanate from a concern for national security and an interest to achieve peace in Spain. Zapatero had earlier focused on the Treaty's capability of putting an end to the separatist struggle of Basque nationalists (EM 12/01/05). In other words, he portrays the ECT as an instrument to achieve peace in Spain. In another way, Zapatero did also say *peace in Europe* at the same time which could prove that Europe has a certain value to him. This hinders us from interpreting Zapatero's focus on security only as a national interest, but also as important for the EU.

Zapatero did also portray the membership as a two-way relationship that involved obligations. When he says that *we wish to do our homework soon* (EP 30/10/04) and *the Spanish Yes is a contribution to a process of European construction which we are so much indebted to*¹⁷, one day before the referendum, there is an economic obligation inbuilt. A similar description was uttered by a party colleague, José Blanco. *One cannot ask for resources from the EU and then not back up a fundamental law project* (EP 10/01/05). Although this would not be an economic obligation, Spain's relation with the EU required something in return which underpins the meaning of cost-benefit. A regional representative in Navarra, from PSN, explained that *there are a hundred million reasons to vote Yes – each one for all the Euros Navarra has received since 1996*¹⁸. Here too, there is an idea of giving something back as a result of a gainful relationship, and maybe in order to receive some in the future. All together, these statements are to a certain extent assumed to emphasise the problem-solving model.

Even so, there might be more to this cost-benefit relationship. What if these statements reflect a moral commitment and respect? If we look at Zapatero's further announcement,

¹⁷ <http://www.robert-schuman.org/anglais/oe/espagne/referendum/default.htm> (2006, April 25)

¹⁸ <http://www.diariodenavarra.es/especiales/constitucionEuropea/index.asp?sec=opiniones> (2006, March 13)

there is actually a European vocation that forms his argument: *We must give a clear message of Europeanism* (EP 30/10/04). This portrays the relationship as built on a moral duty. Is it possible that such a feeling emanates from a European allegiance? When a group of people has the same identity, it is presumed that they have a particular mutual understanding. As such, Zapatero's *homework* would be spurred by a feeling of togetherness and Europeanism. If we look at Blanco's utterance, he also urged Spaniards to conceive of the Treaty as motivating peace and representing a guarantee for future *European "pueblos"* (EP 10/01/05). Here, he reveals to have a concern for Europe's smaller communities and not only Spanish ones. He is seen to frame a European set of common values which would allow an application of the second model. At the same time, he used the word *guarantee* and referred to the local communities' right to survive. Blanco conceives thus of the EU as a protector of minorities and as a law-maker. This perspective has a right-based orientation towards the EU. Finally, PSN did also utter that *The ECT blesses a common area of peace, liberty and human rights*. This would mean *that all the euros Navarra received* seem to also have spurred a judicial perception of the EU because regions like Navarra are given freedoms and rights. Therefore, from emphasising a calculating image in the beginning, focus was changed to concern European values and rights. The problem-solving model does therefore fall short of explaining these politicians' reason for voting Yes.

Spain's First Vice President, María Teresa Fernández de la Vega, enumerated *all the tangible benefits Spaniards are enjoying (...) like infrastructure, motorways and major security* (05/02/02). She measured quantitatively how Spain was indebted to the EU which implicitly means that they had to give something in return. Hence, this utterance appears to be based only on cost-benefit ideas of the Union. However, she seems to approach the ECT with another perspective later on. Another PSOE-politician, Javier Rojo, (also President of the Spanish Senate) said on the day of the referendum, *a Yes-vote would really strengthen Spain's and Europe's position in the world*¹⁹. This was the only statement by Rojo that was found. He might have hoped that Spain reinforced its role in the world and only mentioned Europe as a secondary part. The whole idea inbuilt in his statement is also based on a calculating aspect of the world. As such, Rojo may have conceived of the EU as bringing tangible results. However, if it had been all about Spain's position, why would he mention Europe? He had the opportunity to keep Europe out, but still he included their position. With

¹⁹ <http://www.lukor.com/not-esp/locales/0502/20131750.htm> (2006, April 03)

this in mind, we ought to evaluate his statement within the second notion of legitimation rather than within the first.

Finally, Spain's Foreign Minister, Miguel Ángel Moratinos, uttered early his opinion about the ECT. In June 2004, he reassured that *the Government defended the Spanish interests, through manifesting their European vocation, and they succeeded* (ABC 20/06/04a). Then the article wrote that Moratinos did not explain in detail about the weight of votes in the Council, but that he guaranteed *defence of Spanish interests*. At first, one could think that he is driven by an Europeanist vocation, but his motive seems to be the defence of Spanish interests. Here, we witness how Europeanism is used as a means to be able to guarantee national interests. On this basis, it seems quite obvious that Moratinos has a result-based conception of the EU.

Moratinos was also observed months later with the same posture. He was in Andalusia promoting the ECT when he explained it would bring Spain and Andalusia a future of prosperity (EP 06/02/05a). With this phrase, the Minister approached the EU in economic terms. Then, he animated the Andalusian people to *look back at all the EU has contributed to your everyday life and look at the achievements, not only the economic ones, but also liberty, democracy and judicial guarantees*. Moratinos' statement is seen to emphasise the first model again because he only pays attention to Spain's improvements. Whether they are economic, democratic or institutional, they are national enhancements that have fulfilled national needs. Bearing in mind these two announcements by Moratinos, his posture is revealed to conceive of the EU in quite a different way. A reasonable explanation to such a change in point of view could be that Moratinos wanted the Spanish people to realise the benefits they have already received. Spain would also continue to protect its core interests, but there was something more to this Treaty that required an enlarged view of the European polity. As we will see, to Moratinos the ECT introduced a European citizenship.

5.1.2 The Popular Party - PP

As soon as the campaign began, PP showed concern about the lack of persistence the governing party had put forward in the negotiations of the ECT. Even though they wanted to vote Yes for this Treaty, PP accused Zapatero and his allies for not knowing what was best for Spain. In El Mundo (20/06/04), Mariano Rajoy, the party leader, expressed satisfaction about the Nice Treaty while the new treaty *signified a step backwards for Spain in Europe*. He claimed *it is good that the opposition puts pressure on the Government so that they*

defend Spain's interests (ibid). Rajoy's motivation for voting Yes seems as such to be based on calculating ideas. *National interests* were not always economic oriented. Spain's nationalist roots that had led to a claim for self-rule were seen as prevented if they adopted the ECT. Rajoy explained that the Treaty *defined Europe* and *hindered deliriums for independency from the nationalists in Spain* (EM 12/01/05).

On December 21, Rajoy defended the ECT by saying, *it is good for Spain and for rest of Europe, but that does not imply that I will stop pushing the Spanish Government in defending Spain's national interests as good as it can (...) Spain cannot convert into a secondary country in the EU's future goals*²⁰. He also said that Spain must continue with the Cohesion Fund which he evaluated as being threatened after the Enlargement. In the Congress (08/02/05), Rajoy explained that *the ECT is the guarantee of a democratic State, of the respect of legality since it defies Europe as a union of States and citizens, a definition that closes the door on hysterical desires for independence*. In these settings, Rajoy reiterates a motivation based on national interests. Shortly afterwards, he asked the Prime Minister *to work and make an effort so that the losses from the Structural and Cohesion Funds (...) would be reasonable and gradual* (EP 16/02/05a). However, Rajoy did also admit that Spain had to let new members receive the same aid as they had received. As the meeting was labelled, *The European Constitution and Solidarity*, it is assumed that there was a sense of solidarity and connection to Europe that lay the ground for the assembly. This gives us a slightly different idea of PP's posture. So, although the majority of PP's utterances shows an obvious legitimization of the EU through its outcomes, the Popular Party may also have been affected by the common values of the Union.

Then, two days before the referendum, Rajoy defended his Yes in a plural PP-meeting. He talked warmly about Spain's last 19 years with the EU and said it was *a club no one wants to leave* (EP 18/02/05). Rajoy continued, *My Yes is not for or against the Government, but because it is common sense and good for Spain*. He called Zapatero *little patriotic* and said if he had been in power, he had been more patriotic and gathered more Yes-votes. If we interpret *good for Spain* and Rajoy's *more patriotic attitude*, his utterance is likely to reveal national interests. Rajoy did not say anything about how *Europe* would gain from a Spanish Yes. He is assumed to have had the opportunity to mention a European vocation or a unity

²⁰ <http://www.ucm.es/cgi-bin/show-prensa?mes=12&dia=21&ano=2004&art=10&tit=b> (2006, 21 August)

feeling that inspired his Yes, because the meeting was all about defending of the Treaty and not about *criticising the Government*. Bearing this in mind, we are more inclined to interpret PP's main focus as motivated by the defence of national concerns. Quite ironically, the day after, a regional PP-representative, Francisco Camps, claimed that *the party's Yes would be a No to Zapatero's Government* (EP 19/02/05a). Here PP's main reason for voting Yes appears to be to win the next election and to gain support in Valencia (where Camps is PP-representative). This is an interesting observation which might tell us that the party lacked a clear cut motivation to back up the Treaty. While it some times was about domestic politic and criticism of PSOE, other times it appeared to be about defending the nation-state.

Jaime Mayor Oreja, a party colleague and previous Minister of Internal Affairs, uttered concern about how the Basque region could fracture the ECT. In El País, he stated: *To say Yes to the ECT is to say No to the nationalistic offensive in Spain. A defence of the European Magna Carta would be the same as defending effectively the Spanish Constitution* (EP 10/01/05). One week later, he put the ECT on the contrary side of the Ibarretxe Plan and said *the ones in favour of the ECT had to work against the Basque separatists* (EP 17/02/05). The same day he was referred to on the internet: *The fight against terrorism is 'very present' in the Treaty (...) it is an additional fountain of stability that will solve everyday problems. This will make Europe and Spain more stable and secure and create the necessary conditions for Europeans to develop economically and socially*²¹.

Oreja was obviously concerned about Spain's national security and portrayed the ECT as a reassurance for more stability. In this way, the Treaty was in the nation's best interest; it protected them from terrorism and defended the national Constitution. This strengthens the application of the first model to Oreja's argumentation. In another way, *Europe* was also predicted to become more stable and *Europeans* were benefiting from this. With this reference to the EU, he appears to be encouraged by a community feeling of *us Europeans against Terrorism*. This would then be a weakness to the application of the first model.

The Popular Party was criticised by Elsa Granda in a report published in El País (19/02/05b). She claimed that PP's Yes was more about foreseeing Zapatero's possible failure (referring to a low participation rate) and about exalting Aznar's ex-Government than *drawing a future with Europe underneath an umbrella of a common Constitution*. Granda makes a relevant

²¹ <http://www.lukor.com/not-esp/internacional/0501/17133155.htm> (2006, 08 February)

point in relation to how Closa and Heywood (2004:47) described PP: *A calculating and profit-oriented party that holds a more nationalistic line towards European integration*. Closa did also characterise PP as a more “*estatalista*”²² and claimed that PP’s main interest was to give Europe control over areas such as the *economic liberalisation* in addition to *highly national interests such as terrorism and immigration*. This attitude was confirmed by former PP-politician Alejo Vidal-Quadras. He said that *PP’s Yes proved that PP always put Spain’s interests above the party’s interests* (EP 06/02/05b). All this reinforces the assumed result-oriented PP whose Yes-vote seems to have been promoted by material interests.

5.2 THE GENERAL PUBLIC

The general public appeared to have considered the EU through the calculus of cost-benefit. When “googling” the public’s positive attitude, only one comment of relevance to the first model was found. This came from an anonymous person saying *a Yes-vote for the ECT would help Spain to progress and help so that things get better little by little*²³. This statement may point towards a concern for national progress. Although this could emphasise the first model, the phrase is too vague to be sure.

The quantitative data available on the ECT, offered two questions that could indicate a legitimisation through the EU’s outcomes. One of them comes from the earliest CIS. Here, 2400 people were questioned: *with the European Constitution, will Spain increase its possibilities in developing economically?* (CIS 2004:P8). While 18 per cent answered that they disagreed to this statement and 20 per cent did not know, a total of 60 per cent agreed fairly or very much to this statement. The drawback with this finding is that it tells us nothing about how the 60 per cent voted 20 February or about how they spoke of the ECT in other matters. However, what the answer *does* tell us is that there was a significant number of people who believed that the ECT could bring positive *economic* effects. Previous studies made on Spanish attitudes towards the EU show that a stable amount of 32 per cent have characterised the membership in positive economic terms (EB 2003-2005). This information tells us that the 60 per cent-attitude is unusually high. It is hard to believe that Spain’s previous economic upswing with the EU was still generating positiveness towards the EU. In view of resent fund reductions and information about further reductions from the EU

²² *Estatalista* refers to an intergovernmental attitude.

²³ <http://constitucion.blogspot.com/2004/07/vota-si.html> (2005, November 13).

institutions in the agenda 2007-2013, it is remarkable that 60 per cent still saw the ECT in economic terms. Considering this, it is possible that the ECT brought about positive associations about previous European Treaties. Such an interpretation of the general public would give strength to a legitimization through the EU's outcomes.

However, as we already know, there was a significant lack of knowledge about the Treaty's contents. We *do* run the risk that a great deal of those people who answered the question (P8) did not really know whether the ECT would help Spain to economically advance or not. It is also possible that some people had hoped it would bring economic benefits and since they did not know yet, they answered the question as *I think it will increase the possibilities*. Taking these points into consideration, this finding does not necessarily tell us at these people considered the EU membership through the calculus of costs and benefits.

In a later questionnaire (The Report 2005), 2014 people were interviewed. On question 6c, a total amount of 89 per cent of Spanish Yes-voters said to believe that the Treaty would *increase Spain's role in the EU*. Even though *Spain's role* is not a very specific term, it is fairly clear that it can be related to national feelings or self-interests. Spaniards may have foreseen an enhancement of their role in the Union which could indicate a focus on Spain's relative strength towards other EU members. From a different perspective, if people already knew that the ECT was about to reduce Spain's role in the Council, it is more likely that other aspects apart from instrumental ones, prompted such a belief. The question might have spurred ideas about Spain's role as European ambassadors, about their reputation of being a Europhile member or about their role as supporters of a European identity. From that point of view, the first notion of legitimization loses most of its relevance.

As a final remark in this chapter, the same questionnaire showed that only 1 per cent admitted that the *key element that led to their vote* was that the ECT was *beneficial* (The Report 2005:Q5). This observation weakens somehow the assumptions made above about the general public regarding the ECT as a tangible benefit. However, *it's beneficial* does not imply directly that the Treaty would give Spain an economic profit. A person may have thought that *the Treaty is beneficial to me because it gives me certain rights*. Despite not allowing a specified interpretation, Q5 told us that there was hardly anyone that voted Yes would have called the Treaty *beneficial*.

6. The value-based strategy

In the beginning of this paper, it was assumed that the Spanish population was rooted in specific cultural and historical lines that would make them identify with Europe. This chapter scrutinizes this group of people. It will first dispute the political establishment, which is divided into regions and the two biggest parties. The second model's application on the general public is then put under scrutiny. This theory's fundamental principles tell us that the Spanish people would recognise that there are certain ethical values in common between the European and Spanish society which make them develop a European identification and adherence. It presumes that these would form the Spanish Yes. Such identification has been referred to the Spaniards' sense of *Europeanism* which is a *we-feeling* founded on a shared culture, heritage, memories and historical events. This term is not easy to pin down in the Spanish statements. A proper operationalisation of the word will follow.

Core questions that can be posed through the following analysis are: Does the statement put the EU in a historical context? Does the argument reveal a person's adherence to European values or culture? Does the person utter appreciation for Europe's recognition of its identity? Is the European cultural foundation seen as an extension or a reflection of the national/local culture? These questions may help us to see to what degree the statement emphasises the value-based model. Just before the analysis, the term *Europeanism* is briefly presented.

6.1 DEGREE OF EUROPEANISM

It has been a common impression that Spaniards have a high degree of Europeanism²⁴ (Closa and Heywood 2004:242-244; Oñate et al. 2005:2). According to Closa (2001:6), data from the Eurobarometer tell that 70 per cent of the Spanish population felt Spanish and European at the same time. Such dual identification, despite dropping to 59 per cent two years later (EB 2003b), was reiterated when Spain was measured to be the country that felt closest to the EU compared to the other members (CCEB 2004:42) Is it possible to imagine that this degree of European identification formed somehow a Yes-vote? If so, what sort of self-interpretation was it founded on?

²⁴ <http://barcepundit-english.blogspot.com/2005/02/eu-referendum-in-spain-see-yesterdays.html> (2005, March 01)

Relatively few of the statements in the previous chapter were indisputably pointing at an economic notion of legitimation. Some appeared with value underpinnings or even saw the EU as a grantor of rights. It appears reasonable to introduce the term *Europeanism* to explain the move from the first to the other two models. Europeanism is thought to refer to different degrees of feeling European. The second and third degree of Europeanism depict a Spaniard to have a European and Spanish identity at the same time or to feel fully European. They do not fear to lose national identity. This allows an application of either the value-based or right-based model. However, the first degree of Europeanism is somewhat more difficult to pin down. It depicts Spaniards to have strong attachment to their own culture and nationality, but at the same time, they feel attached to the European community. This deeper sense of unity feeling is either a rooted identification or developed in line with the European project. In the first case, Europeanism is spurred by recognition of shared humanist values and in the latter case, by a cognisance of European entitlements and obligations. Both types manifest allegiance to the Union, meanwhile their national identity is still strong. This has been called *deep diversity*²⁵ which refers to *a plurality of ways of belonging to a polity* (Eriksen and Fossum 2002:16). In particular, the Spanish regions seem to appear with deep diversity statements. As we will see, both the second and third model are applicable to them.

6.2 THE REGIONAL ARGUMENTS

It was a comment made by Oñate et al. that *In the Spanish debates, the risk of losing national sovereignty was a non-apparent issue* (Oñate et al. 2005: 2 and 26). They further contended that *no one feared that the ECT would lead to political cuts of the national authority* (ibid). What strengthens this assumption is a previous analysis that depicted between 60 and 70 per cent to not be afraid of losing their language, national cultural and identity (EB 2004a). This tells us that the Spanish population did not view the ECT as putting their identity at stake. On the contrary, the ECT worked rather as an emphasis on their national or regional identity, as we will see in the following. The regional parties seem to have viewed the EU as a protector of their identity while Spain was seen as having the opposite effect. We will scrutinise what lies beneath the regions' Europeanism. The regional parties that said Yes to the ECT were two Catalan parties (CiU and PSC), one Basque (PNV) and one Canarian (CC). Here, we will look at three of them.

²⁵ For further explanation on the term, see Taylor, 1993.

6.2.1 The Basque region

First of all, PNV is said to have one of the most regional affinities and highest degree of nationalism in Spain (Closa and Heywood 2004:34). PNV's supporters have even been characterised as below the Spanish average of European identification (ibid). That PNV called itself *profoundly Europeanist* during the ECT-campaigns (PNV 2004:1) and that they described themselves as generally positive to the European construction, prompts a special interest for the Basque attitude²⁶. It is also interesting that this was the first Constitution ever approved by the Basque Party (EP 19/01/05). What was it about the ECT that stimulated such Europeanism? Which conception of the EU built the ground for this Europeanism? When the ECT was translated into Euskadi three months before the referendum²⁷, the Basque people were maybe emotionally motivated to vote Yes due to the EU's responsiveness to Basque culture.

One of PNV's core issues was to achieve recognition of the Basque language from the EU. We may assume that the struggle for an approved Euskadi was a matter of identity recognition which involved respect for Basque culture and history. In this way, Basque statements were sometimes revealing a value-based notion of legitimisation. However, a wish for judicial protection of Basque language and culture was also inbuilt in the EU recognition. As we shall see, it is salient to distinguish these two types of acknowledgement.

PNV's leader, Josu Jon Imaz, stated in November that *they wanted a common area that respected all the nations, regions, cultures and languages (...) a Europe that respects Euskadi and we will bring what is ours into this common patrimony* (LR 10/11/04). Imaz regarded the EU's proposed Constitution as welcoming Basque cultural roots. That the EU shows respect for Basque identity proves responsiveness to the Basque nation. When he says *common patrimony*, it is assumed that there is already a feeling of unity between the two identities as *patrimony* may signal a sense of brotherhood and sisterhood between Europeans. As such, the EU manifests existing values in the Basque culture through the ECT. In this way, Imaz is believed to legitimise the EU as a value community. The use of which would reiterate the application of the second model.

²⁶ http://www.eaj-pnv.com/documentos_des.asp?id_documento=4378 (2006, May 12)

²⁷ <http://www.es-ue.org/default.asp?newid=111&lg=2&displaying=other> (2005, November 08).

However, Imaz did shortly afterwards confirm his position in *El País* (29/11/04). He said that *the Basque Country needed a Europe that advanced its construction in order to obtain a recognised Euskadi*. In this article, Imaz was motivated by his *nation's right to develop itself*. Immediately, the EU is portrayed as granting rights to its people and as a system which develops a set of guarantees. This makes the third model appear more suitable.

A party colleague of Imaz, Gorka Agirre, uttered 18 February 2005, *with this Treaty we advance a bit more in the Europe of nations and regress accordingly from the Europe of States conceived as the only depositaries of sovereignty*²⁸. To Agirre, *nations* are equalised to regions such as the Basque Country. The total impression of this article is that Aguirre seeks an increased respect for their linguistic and cultural nature. In one hand, since the term *nation* may be interpreted as upholding a system of values that encompasses mutual relationships among its citizens, a *Europe of nations* does perhaps involve a *we-feeling*. It would be a Europe that has always been a geographically delimited entity based on common humanist values but that has been ruled by politically defined borders like States. With this perspective, it is possible that Imaz posits the EU as a value-based community based on a common history of mutual respect that has always existed. The ECT allows this Europe to advance. On the other hand, *Europe of nations* might also refer to Europe's cultural diversity that for the first time is formally described and referred to in this Treaty. Such a perspective would rather be an underpinning of the EU's post-national character.

An official report was published by the Basque party in November 2004. Here, the party drew a parallel between the ECT and their political struggle for self rule, the Ibarretxe Plan, (PNV 2004:13). *We Basques, share the traditional values that the European soul has shaped and we adhere with enthusiasm to the idea of offering and imposing principles of liberty and justice to this plural (...) world* (ibid:8). *The situation that the ECT offers is more favourable for (...) the Basques than the present situation, which has led to a change from a Spanish adhesion to a European one* (ibid:10). It seems as if the Basque identity has always connected to Europe's fundamental principles and *soul*; a connection suppressed by State borders. This has made their adherence to Europe greater than their adhesion to Spain. For this reason, the report emphasises a values-based understanding of the EU. However, as we shall see, the majority of the report's statements allow an application of the third model.

²⁸ http://www.eaj-pnv.com/documentos_des.asp?id_documento=4378 (2006, May 12)

6.2.2 *The Catalan region*

In Catalonia, two parties voted for the ECT. On the left political side, there was PSC. Their leader, Pasqual Maragall, portrayed the European model as a peace maker that Spain ought to learn from in order *to be more loyal to its diversity*, referring to the regions (EP 12/01/05c). Maragall further called the Treaty *a tool to defend Catalan language and culture* and said *with a solid Europe Catalonia will achieve its objectives more easily* (ibid). In one way, Maragall's argumentation has hints from the problem-solving model because he uses words like *tool* and *objectives*, and sees how the Catalan region can benefit from this Treaty. In another way, he portrays Europe as a model that is sensitive to Catalan values and respects them more than Spain. This might mean that there is coherence between European and Catalan values which has always been there. Or it might signify that Europe has presented a model by introducing the ECT that better corresponds to Catalan anticipations than Spain's Constitution. Either way, deep diversity forms his statement. Later in the same article, however, Maragall said, *a future without frontiers* (ibid). This expression calls for further evaluation in the third model.

Just before the referendum, Maragall said: *The nation is no longer Catalonia or Spain: it is Europe and we want a law for the great mother country* (EP 18/02/05c). He saw the ECT as a unique opportunity and as an instrument for socialists to change the world. *Nation* and *mother country* are words that can be connected to fraternity and history. Europe is as such envisaged as a community based on shared culture and history. That Maragall also addressed the socialist layer gives the impression of a European project led by socialists and socialism. A socialist agenda is seen as quite excluding on other people and could indicate a legitimisation mode through a certain set of common values. On basis of such interpretation, Maragall's conception of the EU seems value-oriented. Yet, his statement *does* also prompt another idea of the EU. *We want a law for Europe* forms an image of a post-national Union that provides a judicial framework. Again, the person will be analysed in the next chapter.

On the political right there was the alliance CiU. They had some disagreements about the ECT which led to internal splits (EP 04/01/05). Nevertheless, CiU gave an approving vote which the party's leader, Artur Mas, called a *critical Yes* (EP 22/02/05). They explained this by saying *the EU had not yet recognised Catalonia in all its fullness*, despite the EU's official recognition of Catalan 13 December 2004 (ibid). Though, CiU described the Treaty as *not ideal for Catalonia, but it leads to significant improvements towards recognition of*

Catalonia in Europe (Oñate et al. 2005:28). Mas said that the ECT would be *a step towards regional recognition*, but at the same time, he was disappointed by Spain's policy on regional issues: *The problem is not Europe, but Spain* (EP 29/01/05). A party companion, Rovira Vilajoana said in the Congress (25/01/05) that the Treaty *was positive for Europeans*.

There is no doubt that CiU and Mas wanted Europe to recognise Catalonia. On basis of the abovementioned, CiU's position can be interpreted in two ways. On the one hand, Europe represents a community that seems to favour the Catalan identity. Since *Europe is not the problem*, it is likely that there is a sense of allegiance to the EU. This supposed feeling of unity seemed not to be fully emphasised in the Treaty, which led to a critical Yes. Therefore, CiU's posture may have been directed by a value-oriented image of the EU. On the other hand, that Catalonia was not fully recognised may have signified a need for judicial acknowledgement as in rights and guarantees that would protect the Catalan identity. Such a perspective gives emphasis to a rights-induced legitimization of the EU.

6.3 PSOE SHOWS A VALUE-BASED ATTITUDE

For the governing party and their leader, Zapatero, the Spanish vote did not always seem to be about approving the ECT. It also became a matter of expressing their European vocation. The second strategy presupposes that there is a set of values that is shared between Europeans. The ones that recognise these values are expected to either feel an adherence to the European community or/and to recognise themselves as Europeans. How were such values exposed in PSOE's utterances? Fernández de la Vega, pictured the ECT to give *Spain back its image as the 'Europeanist motor'* (EP 06/11/04). The previous Prime Minister, Felipe González, put it a bit different; *if the No-stance triumphed, the winners would be the anti-Europeanists* (EP 14/01/05b). PSOE's perhaps most leading argument was "Los primeros en Europa", introduced by Zapatero. This means the first ones in Europe. It was a widespread slogan which is believed to have imposed a sense of solidarity and pride among the Spanish population. The following statements shed light over how PSOE's European vocation seemed to be formed by a set of rooted community-feelings. Some regional sister parties will also be analysed in the following because they share PSOE's statements.

6.3.1 "We feel European"

That Spain was the first member to evaluate the ECT was understood as an honourable role to receive and gave the Spanish people a responsible task in front of the other EU members.

PSOE's slogan was chosen to stimulate the Spaniards' Europeanism and the participation according to Zapatero in the Congress (02/02/05). On October 29, Zapatero described Spain's Yes as *showing Europe that Spaniards feel as part of Europe's institution building*²⁹. He continued, *due to Spain's late arrival at democratisation, it has now the opportunity to demonstrate its wish to belong to Europe*. The day after he said, *Europe looks at us. We are to be a reference (...) let us send a clear message of Europeanism (...) the Catholic Church is also Europeanist* (EP 30/10/04). Later he wished that Spain would be *in the first line in the European construction* (EM 15/11/04). Zapatero seemed convinced about Spaniards' European adherence. Whether this adherence is historically related or has emerged with the proposal of this Treaty remains uncertain. Yet, when he mentioned Catholicism, he is believed to have framed Europe culturally and regarded the EU through a set of rooted values. On this background, it appears as quite clear that the Prime Minister predicts Spaniards' feeling of belonging to Europe to inform a Yes-vote.

A similar attitude was shown by José Blanco, PSOE's Political Secretary. He wanted to make sure that Spain realised the importance of being the first country to vote; *Europe looks at us and we are for the first time able to become a reference* (EP 03/02/05). PSOE's General Secretary then said, *Spain can not only be a member. It has to lead (...) Europe* (EP 18/02/05a). These statements reflect a sense of responsibility towards Europe. The Spanish population has been given *the* opportunity to prove their European vocation. This responsibility given to the Spanish people is assumed to reflect mutual correspondence and a sense of unity. These statements are hence seen to be an underpinning of a value-based notion of legitimization.

6.3.2 *European strength*

A legitimization through values presupposes that Europeans are distinguished from others. This makes it an excluding rather than including model (Fossum and Menéndez 2005:106). To someone, differences between Europeans and other communities became more evident with the ECT. There were arguments how the Treaty would make the unity of Europe stronger against the United States as they were societies with conflicting set of values. Without explicitly referring to Europe's cultural heritage, it is believed that these statements emphasise the value-based model because they have a perspective based us-and-them.

²⁹ <http://www.es-ue.org/default.asp?newid=107&lg=2&displaying=other> (2006, March 09).

In Zapatero's eyes, *the ECT embodies a social, political and economic model and specific values that contradict those of the United States* (EP 27/11/04). The model was referred to as the work of Europe's socialists. He further claimed that *the socialists must be the most powerful voice defending the European Constitution*. Here, Europe's socialism is put as the counterpoint to the American model. According to Zapatero, the ECT works as a proof of socialism as it confirms which values unite Europe. As PSC is a sister party to PSOE, they are included in this section. Maragall claimed that the ECT would make Europe *a more significant I* in the world (EP 12/01/01c). The ECT could help Europe to become more active in global affairs according to PSC's leader, *in order to be capable of facing the American hegemony* (ibid). He further pointed at *Europe's fifty years together which had made it possible to develop this European model*. With this, the ECT seems to be the result or the manifest of common values that have always defined Europe.

Then, PSOE's General Secretary, Garrido stated in an interview that *the EU is developing into a political subject, different from the United States (...) and it is a Europe established on its peoples' values* (EP 18/02/05a). This was an open question about the ECT that allowed Garrido to take up whatever issue he wanted in order to defend his Yes. This statement is therefore seen as underscoring one of the core motives of PSOE's support. He is believed to have a value-based posture here because he refers to how Europeans have developed socially and created values together. The EU differs from other political subject because it is founded on its *peoples' values*. These are hence interpreted as historically rooted values.

Finally, in an interview with the former political minister under Felipe González, Javier Solana, the ECT was presumed to give the EU an international weight because *it carries certain values and does things differently from other powers* (EP 15/02/05b). Solana then pictured the ECT *to create the most important European diplomatic structure in the world* (EP 19/02/05c). Despite being the High Representative for the Common Foreign and Security Policy in the EU, he is assumed to represent the Spanish elite because he here in El País talks *to* the Spanish people. His arguments are seen to be value-oriented because common values like diplomacy made the EU unique as a community. He also pictured Europeans to act differently from others which may imply that Europe has a uniting effect.

One final remark is that most of the utterances above regard the EU as a system that works or is starting to work as a proper subject. Apart from seeing its foundation as built on value-related terms, they also infer that the EU is somehow developing into something stronger

than before, but still on basis of a unity of values. The ECT seemed to be a symbol of this new role. Would it not be reasonable to consider the Treaty as an impetus of a post-national idea of the EU? Does the Union develop into an entity that works independently from its members and therefore is able to be weighed against the United States? With this interpretation, the utterances above might also indicate that the EU's development is based on historical heritage and its peoples' values together with a judicial onus.

6.4 PP SHOWS A VALUE-BASED ATTITUDE

The Popular Party emphasised relatively few times the value-based legitimization mode, but some statements *did* emphasise of cultural adherence to Europe. Maybe PP's *less intense* campaign compared with PSOE's campaign (Oñate et al. 2005:3), was forming part of the reason for less statements about Europeanism. Or maybe they did not want to impose a specific attitude on the Spanish people as Arístegui y San Román described in the Congress (25/01/05). This PP-politician uttered strong concern about the scarcity of public debate and complained about how *PSOE accused them for being anti-Europeanists*. He denied these accusations and said that the problem was not PP's Europeanist stance, but a Spanish population that did not include themselves in the public debates. An underlying message of his speech seemed to be that it was important to stimulate public discussions and not to demonstrate a European vocation. This explains perhaps why the Popular Party's argumentation did not emphasise so much their Europeanism.

When he acted publicly in front of 600 listeners in Barcelona in October, he portrayed a quite vague picture of his EU position. *Spain's future is in Europe and the Constitution is an intention for unity from diversity* (LR 31/10/04). With this affirmation, PP's leader may have perceived the ECT as establishing coherence between Europeans. This indicates that Europe is established on the basis of already shared and uniting principles. However, since the ECT is new and if Europe was founded on *diversity* before, his statement might also indicate that the EU is establishing a community now, but on basis of differences. Such a dual interpretation would allow both the second and the third model to be applied. Nevertheless, he continued; *it would be an error not to defend national interests in order to make Europe stronger* (ibid). This would support PP's national orientation and thus allow the first model to be applied. Finally, in another article, he said *Europe is more important than to punish Zapatero* (EP 05/02/05a). Here, his ECT-support seems to be motivated by European

concerns instead of focusing on domestic relations. Even on the basis of the whole article, it is hard to tell whether this European concern is underpinned by the second or third model.

Later, Rajoy said that PP supported the ECT in spite of all the differences they had with PSOE because the Treaty was *globally positive* and because *major parts of the Treaty were already approved when PP led the Government* (EP 09/02/05b), he gave conflicting signals. In a way, he presents the ECT's importance to be greater than national politics, but at the same time, he presents his own party as being the reason for an approval. The latter reason has hints of political propaganda as PP seems to benefit politically if the ECT is approved. The total impression of PP's orientation towards the ECT was that their argumentation wavered from emphasising national concerns to criticising the Government to portraying the Treaty as good for all Europeans. As Rajoy demonstrated in Andalusia, there was an instrumental underpinning even though he linked the Treaty to a European unity-feeling.

In the Congress, Arístegui y San Román started off by criticising PSOE's way of connecting Zapatero to the ECT as if it was his Constitution, the PP-politician claimed. His reason for voting Yes was that *it is evident that the ECT will support a stronger, more united, more solidarity-based, more prosperous and more secure European construction* (CO 25/01/05). He also proved PSOE wrong when they had referred to PP as *anti-Europeans, euro-sceptics and asking for a Yes-vote with a small mouth*. His utterance in the Congress is seen to reveal an opinion that reflected a unified Europe built on solidarity. He did not explicitly depict Europeans' solidarity as founded on common values and culture, but between the lines, the EU is already strong, united and based on sister- and brotherhood as in solidarity. He later explained that *the Treaty enables Europe to become stronger and attain a more united voice towards the world* (Oñate et al. 2005:23). Here, he positively identifies Europe and stresses the unity feeling. From such a viewpoint, he perceives the EU as a value-based polity.

6.5 THE GENERAL PUBLIC'S VALUE-BASED ATTITUDE

A certain degree of Europeanism was also found among the general public. An anonymous person described the ECT as *not a perfect charter, but it ought to be approved by the people as long as they felt European*³⁰. The President of 'The Union of Women for Europe' said that *to vote Yes to the ECT is a matter of being Europeanist or anti-Europeanist and of*

³⁰ <http://foros.elaleph.com/viewtopic.php?t=18254&start=0> (2006, April 13)

showing nationalist dissonance or patriotic solidarity (EP 13/01/05). A representative from the Law Faculty asked, *why reject the Europeans now when we have shown them such solidarity the last period of time?* (EP 12/02/05a). These utterances manifest the high degree of Europeanism that exists in the Spanish society and some times by showing *solidarity*. They are believed to emphasise the second model because they portray the membership as based on a *we-feeling* that has always been there. As for the first utterance, this Europeanism might also generate from a self-conception of being a rights-holder in the EU. This proves how different a European adherence can be formed and underlines two separate models.

There was also an understanding of a Europe with enlarged weight in the world if the Treaty was approved. Aldo Olcese, President of the Institute of Financial Analysts, presumed that *the European economy would receive in 2010 the leading economic role in the world which the USA represents today* (EP 02/02/05). The biggest Spanish private companies were together when they claimed that *Europe's economic and social welfare system was considerably dependant on a ratification* and that *part of their goal is for Europe's economy to surpass the United States' leading role today* (EP 02/02/05). Even though these companies are concerned about economic matters, their argumentation is seen to underpin a European *we-feeling* because they put the EU against the USA. A similar attitude was redetected in CIS 2004 (P11a). Here, they were to point out the core reason for voting Yes. Almost 5 per cent answered that it was *because it strengthens the EU in front of the United States*. The respondents were confronted with eight alternatives which makes 5 per cent quite a significant amount of people. What might emphasise this attitude, are two previous analyses that state that about 30 per cent of the Spanish population view *the EU as a way to strengthen their voice in the world* (EB 2004b and EB 2005). To put the EU on the opposing side of the rest of the world is believed to underpin the European community-feeling.

Another quantitative finding from the Report (2005:Q5) is also believed to detect a value-based attitude among the general public. Q5 tells us that the percentage that voted Yes due to *their total impression of the EU* (33 per cent) was higher than the percentage that voted Yes due to *their opinion of the ECT* (26 per cent). Furthermore, the questionnaire found that the first category mainly concerned elderly people while the second category appeared more often among younger people. On one hand, it tells us that when the older generation voted Yes, historical values and memories may have conducted their vote. This could mean that their evaluation of the EU is an underpinning of a value-based notion of legitimization. On the

other hand, this finding could also point at a people that had experienced a profitable EU period and thus developed anticipations of a membership that still brought about benefits.

The final finding points at what the EU signified to the Spanish population. While 52 per cent of the Spanish people said *they believed fairly to very much that the ECT guaranteed peace and prosperity for the Europeans* (CIS 2005:P21), 68 per cent said the same in the first questionnaire (CIS 2004:P11). Whereas this tells us that Spaniards had expectations of the EU, it also displays how strongly certain values are related to the membership. Both questions referred to *Europeans* which allows us to interpret the answer as reflecting a unity-feeling among Europeans. Notably, the respondents did not have the choice to say anything else, but considering the high percentages, it is likely that they acknowledge certain shared ambitions with the rest of Europe. The ECT appeared as the symbol of these common values. In addition, *peace* and *prosperity* are considered to represent special values to the Spanish people and largely equivalent to the EU because the membership stimulated Spain to become a democracy. Memories and historical associations might thus be connected to *peace and prosperity*. This makes it likely to see their answer as underscoring a legitimization through the EU's values.

However, if we also look at previous studies of the Spanish population, only 15 to 23 per cent have described the EU in relation to peace (EB 2003a). The EU is maybe signalling a stronger peace-aspect with the ECT than it has done before. This opens up for another interpretation of the question. Why do Spaniards connect peace and prosperity more easily to the European project with the constitutional document? Maybe it is the ECT's entrenchment of fundamental rights that makes *peace* a describing term of the EU. If we look closer at the question, it says *guaranteed*. This implies that Europeans have a right to possess them. Spaniards may have interpreted this as a protection of their individual integrity and maybe felt addressed as European citizens. If so, it could signify that they saw the EU as a post-national entity which highlights the third strategy. However, since this question did not permit more explanation of the concepts *peace and prosperity* or *guarantee* it remains difficult to decide which of the one models were actually emphasised. One finding is though that the constitutional document was connected to values that seemed more acute now than they have appeared before.

6.6 THE VALUE-BASED VIEW OF THE CONSTITUTIONS

The final application of the value-based strategy takes place in the comparison of the Spanish Magna Carta with the European proposed Constitution. How is the second model applicable to this comparison? The value-based conception of legitimacy requires a Constitution to have evolved over a considerable period of time (Fossum and Menendez 2005:104). This means that the ECT must be seen as a reflection of already established Spanish ethical norms and values inherent in the Spanish Constitution. In this way, Spanish traditions and memories are constitutive of Europe (ibid). We will now analyse the different arguments that took place after Spain's Supreme Court announced: *It does not contradict the Supremacy of the Constitution* (EP 15/12/04 and Pérez-Roldán y Suanzes-Carpegna 2005:3). First, value-based arguments are analysed and then in the next chapter, the right-based ones.

Fernández de la Vega (PSOE) explained that *the ECT reinforces the Spanish Constitution because it adopts the same values of liberty, equality, justice and pluralism* (EP 06/11/04). She further said that the ECT *strengthens* the Spanish Magna Carta as *they refer to the same values* (ibid). El País quoted Gabriel Cisneros, a former PP-politician: *There is absolutely no contradiction between the two (...) The European Constitution does not innovate, but is consolidates a situation that had already been evolving in Spain* (EP 13/12/04). What these statements have in common is their view of the ECT as a reflection of a national process and consolidates with already established values in the Spanish society. When the ECT is understood as symbolising and reflecting the constitutional process in Spain, it is assumed that the value-based model gains support. Yet, if these two were asked if they allowed judicial review of the national legislation that would entail reforming it, the second model would fall short in explaining their position. This illustrates how sensitive the issue of socio-cultural roots is and how difficult it is some times to detect a person's feelings and values.

The general public's opinion on this matter did not appear in any questionnaire, but according to the lawyer Pérez-Roldán y Suanzes-Carpegna (2005:3) *the public opinion acknowledged that the ECT was perfectly compatible with their [Spanish] Constitution*. One could not expect the general public to have compared the two Constitutions. Probably, this responsibility was left to the political elite and assumingly they had shared opinions on this matter. However, as we shall see, the comparison of the two Constitutions could also some times reveal a right-based conception of the EU.

7. The right-based strategy

This chapter will apply the final model to Spanish statements. It will start off by looking at the two Constitutions and then handle the regional parties, PSOE and PP. Finally, it will look at the general public. It is assumed that Spain's late democratisation made democracy an essential term for the Spanish people. When statements refer to how European democracy is improved by the ECT, it is believed that they have adopted a right-based conception of the EU. The people could also feel, to different degrees, embedded in the European judicial framework if they address themselves with reference to European rights and obligations. Nicolás Sartorius, a lawyer and the Vice President of the "Fundación Alternativas" (Spanish think tank), wrote an opinion in *El País* (04/06/05) explaining his support of the ECT: *The Constitution (...) takes a step away from the national citizenship towards the European citizenship*. This is seen as a typical example of how a right-based statement is formed.

Throughout the analysis, some central questions may help us to denote possible right-based attitudes. Is there a wish for European citizenship? Are the people cognisant of their entitlements or obligations in relation to the EU? Do Spaniards seek to ensure the EU rights to influence Spanish life and actions? Is the EU depicted as a polity that is responsive to the European diversity? Is the EU referred to as a protector of a person's integrity?

7.1 THE RIGHT-BASED VIEW OF THE CONSTITUTIONS

To apply the right-based model to statements that make a comparison of the two Constitutions, the person must not see the ECT as rooted in pre-political values. The ECT would be considered to give the EU full state-type abilities that give all European citizens rights and duties. If a statement points at divergences between the two Constitutions and sees the Spanish Constitution as in need of judicial review of legislation, it may underline the right-based strategy.

One article in *El País* (13/12/04) presented several Professors' opinions about reforming the Constitution. The article started: *Few people oppose not to adjust the Spanish Constitution in order to match it to the European Norm*. One of the Professors, Manuel Fraga, said that *the new Treaty goes much further (...) so it is possibly necessary to update the dogmatic components of the [Spanish Constitution]* (EP 13/12/04). Another Professor, Antonio Torres

del Moral, compared the ECT and the national Magna Carta to the relationship between the central and regional authorities and said, *the ECT is to have priority over national law which does not refer to an unquestionable supremacy but to a preference of application just like in a hierarchy of competence*. Then, according to Javier Corcuera, the best solution, in case of contradiction, would be *to change the Spanish Constitution rather than to do the opposite*. These utterances are believed to show signs of a right-based idea of the EU because they are willing to constitutionalise European rights above Spanish law. Whereas the value-based Constitution would not allow a judicial review of legislation, we see here that the right-based Constitution permits entrenchment of procedural guarantees. It grants constitutional status to the political rights that are represented by the ECT. So, the Professors are willing to review the national Magna Carta which signals perhaps that they want the process of EU institution building to continue. This is believed to strengthen the application of the third strategy.

The professor in European Law, Carvajal, who appeared with a problem-solving attitude earlier, employed a different posture in the finale of the campaign. He claimed that *national Constitutions have to adapt to the new constitutional text* (EP 17/02/05b). Throughout the article, he gives the ECT priority over national laws and urges the Spanish people to see the Treaty as a reflection of the Spanish Constitution. While he seems to take on a right-based attitude, as soon as Carvajal sees the ECT as a *reflection* of the national Magna Carta, this is somewhat doubted. If the ECT involves and reflects the same groundwork of principles that has evolved in Spain, then this could be considered as a Constitution *rooted in a set of pre-political values* (Fossum and Menéndez 2005:110). This would rather support a value-based notion of legitimation. It is important to distinguish between conceiving of the ECT as an emulator of already established cultural norms and as an independent European process that propounds a procedural notion of legitimation beyond national control. Only the latter could imply a right-based legitimation of the EU. So when Carvajal claimed that Spain's Constitution had to be adjusted to the ECT while he saw it as a reflection of national charter, he is considered to conceive of the EU as a value-based community and emphasise an idea of a wider cosmopolitan entity simultaneously.

A former member of the Spanish Congress, Fabra Vallés described the ECT as a culmination of a 15 year long European process (EP 24/12/04). The process represented a Europe that had changed geopolitical scenery, *advanced from various treaties and expanded geographically*. The European model was unique and was the most important example of an

organisation founded on the principles of pluralism, democracy and solidarity. The EU had ensured peace and progress for all its members. Here, he appears to perceive the Union within a procedural notion which means that the polity is legitimised through continuously responding to the peoples' needs. At the same time, he said that the ECT would *represent the same foundation as the national constitutions do today and it establishes the competences transferred to the European level from the members*. With reference to this, he called the ECT a proof of *a united continent of diversity*. This is seen to underpin the right-based model because he sees the ECT as a process outside national jurisdiction and with competences that surpass national laws. *[The ECT] reaffirms the European project's values, goals and compromises* made during 15 years of process, he finally said. It is relevant to understand his idea of a European Constitution as playing the same role as the national constitutions have traditionally done.

7.2 REGIONAL RIGHT-BASED ARGUMENTS

When the regional parties were introduced earlier, they were assumed to have a value-based conception of legitimacy, expressed through deep diversity. Arguments in favour of a judicial establishment in Europe were also found. Their motivation to develop political rights and democratic procedures at European level was often fostered by a wish to achieve regional recognition and to be treated as an equal to the Spanish State.

7.2.1 The Basque region

While the Basque party PNV had few value-based utterances, the majority is believed to emphasise a rights-induced European polity. The report talked warmly about *the new personality* the EU developed into with the ECT (PNV 2004:6). *The EU converts into an active subject on the global scene and into the incumbent of international rights and obligations*. The report further asserted that the *EU's own judicial personality* would change the nation-state's sovereignty as the EU's power would prevail over domestic law (ibid:7). This was seen as *convenient* for PNV. The ECT was then pictured as *granting citizens, through the establishment of a popular initiative, the particular ability to initiate the elaboration of a European legislative act* (ibid).

These statements are believed to highlight the judicial character of the EU. PNV predicts a change of judicial prevalence and presents the EU as a supranational level of governance.

The concept of private autonomy was also brought up when they spoke of *popular initiative*. As such, a right-based conception of the Union seems to characterise PNV's statements.

PNV further wrote that the ECT would strengthen the European citizenship by *representing the source of civil and political rights*. The ECT *tries to establish formulas to level out the different citizenships and make it possible for the diverse identities in the communities to live together* (PNV 2004:7). This means that a European citizenship was distinguished from a national citizenship by being driven by supranational legislative organs. The ECT was then depicted to underline *a Europe of multiple identities* that allowed an *equalisation of citizenship* (ibid:8). The ECT seems to have given symbolic support to the Basque identity and entitled them to see their nation as equivalent to other European identities. In this way, the EU appears responsive to the Basque identity. This fortifies the application of the third model. A *European citizen* was referred to as one who was entitled to address the European institutions in its own language and had the right to be responded in this language (ibid:12).

Then, Germany's, Austria's and Belgium's regional participation in the EU was brought up (ibid:8). PNV envisaged a polity that would defend the Basque region to the same extent other European regions had already been included. This issue corresponds to the third model's expectation to allocate competences among different levels of government. PNV seemed to view the ECT as leading a process of institution building where the regions of Europe are integrated in its judicial entrenchments. In the conclusion, they wrote that *the ECT follows a positive direction in the process towards a major European integration* (ibid:14). In other words, PNV is thought to welcome a future post-national European order as long as it treats their region separately from Spain. So, when they concluded that *no federalists would want this Treaty*, it is assumed they want no federal Europe that is based on Member States, but on nations. However, the third model posits that the Union is federally structured. It would be necessary to add that such a structure is founded on a Europe of nations. The model does, in a way, predict that the EU is founded on nations because its legitimacy is contingent on compliance from the multiple identities in Europe. Therefore, it is likely to evaluate PNV's non-federal image of the EU as a legitimisation through rights.

PNV's leader Imaz, whose perspective of the EU did not fully speak to the second model. In June 2004, he described the EU as the most just and balanced social project in the world

which *guaranteed social welfare of future generations*³¹. Then, some months later, he claimed that *each nation has the right to develop itself (...) each step implies more Europe and less Spain and France*, referring to the ECT as one of these steps (EP 29/11/04). Imaz seems to depict Europe within a larger cosmopolitan order in these two occasions because he envisions the Union as a substitute for the nation-state. *More Europe* would help the Basque region to develop itself and reduce Spain's influence. *Each nation* stresses his conception of a Europe built upon different identities instead of different states. In another article, he fortified the idea of a borderless EU. *The EU constructs a social, cultural and economic reality and in the future, common politics, thanks to the common space developing beyond the States*³². Imaz conception is seen to underline the third strategy because the European construction represents a process outside national governments' control. However, we ought to pay attention to his use of the term *nation* which has earlier been connected to the second model. Here, it appears an adherence between the Basque nation and the EU because it has the *right to develop itself* and not because of common values or a shared history.

An interesting observation on PNV's position is when PP claimed that *the ECT's principles do not open up for any Basque exclusion, division or secession* (EP 08/02/05b). As we have seen, Rajoy and Zapatero saw the Treaty as a way to diminish nationalists' claim for self-rule. While PP's *Yes was a No to the Ibarretxe Plan* (EP 16/02/05b), PNV did not approve the ECT unless it included principles from the Ibarretxe Plan. This displays the ECT as a document that has been interpreted in two quite conflicting ways.

7.2.2 The Catalan region

In the Catalan political sphere, there were a couple of utterances where the Catalan people were seen as entitled to rights with the ECT. Maragall was earlier assumed to place PSC's posture within the second model, but some of these statements are also believed to highlight the third strategy, as the EU is seen as the widening space of contention between Europeans.

In January, Maragall asserted that *Catalonia's proper personality is favoured in a Europe of federal roots* (LR 12/01/05). The same day he was quoted in *El País* (12/01/05c). *I thank the socialists for opening the door towards recognition of Catalan in Europe and I predict a future without frontiers (...) the EU will continue our Catalan project*. Later in January, he

³¹ <http://www.ucm.es/cgi-bin/show-prensa?mes=06&dia=2&ano=2004&art=30&tit=b> (2006, October 2)

³² <http://www.diariodenoticias.com/ediciones/2005/02/15/politica/espana-mundo/d15esp20.221858.php>

proclaimed PSC's *unmistakable Europeanist trajectory* (EP 24/01/05). He finally urged Catalonia *to drive Spain's boat of pluralism towards a Europe that guarantees diversity* (ibid). To which conception do these utterances speak to? Catalonia's personality refers to the Catalan identity and its uniqueness. Maragall has already claimed that their identity is defended as the EU is *sensitive to its diversity*. For this reason, he is seen to carry a rights-based notion of legitimization. When he uses terms like *pluralism*, *guarantee* and *without frontiers*, these emphasise his conception of a rights-induced EU. The Catalan *Europeanist trajectory* is seen as a pathway towards a European polity that is capable to defend Catalan personality and values. If the EU continues its institution building, the Catalan identity is predicted to receive recognition and strength. He finally said, *since Europe is so grand, it cannot be centralist* (ibid). The EU needs to allocate its competences among different levels of government such as regions. This would give emphasis to Maragall's deep diversity.

What about the article's title? *Maragall proclaims PSC to be the heir of Catalan Europeanist tradition* (EP 24/01/05). If Catalonia has traditionally been Europeanist; a role transcended to the socialist Catalan party, does this imply that there is a value-community between the Catalan region and Europe? If Catalonia has always felt European and that PSC now takes over the role to proclaim this Europeanist vocation, would it not imply that the region has already developed an adherence to Europe through history? Maybe Catalonia feels a unity with Europe because they have always (traditionally) felt as a part of Europe. In this way, Maragall perceives the EU within a history-perspective too, which allows the second model to be applied. This makes it difficult to separate deep diversity statements that show history-dependent allegiance or procedural (active) adherence to the Union.

A week before the referendum, PSC's leader said that *Catalonia feels totally European and wants to be looked at as totally recognised in the mosaic of people in Europe* (EP 12/02/05a). He referred to the ECT as *the construction of the European dream*. He also described the ECT as *an instrument that strengthens the development of the Catalan identity in the EU community*. That *Catalonia feels totally European* may imply that Catalans are about to or have developed a European identity. This Europeanism is seen as a rights-induced notion of legitimacy. When he points at Europe's *mosaic*, it is the diversity of identities in the EU. In this perspective, the Catalans may see the ECT as sensitive to their identity. This makes them perhaps become self-conceived European right-holders.

Maquel Iceta, PSC's spokesman, did also emphasise the party's right-based position when he stated that the ECT made the EU more democratic than the present system because it *establishes double legitimacy, (...) strengthens rights, establishes a European citizenship and a judicial personality to the Union* (EP 15/02/05b). Double legitimacy refers to a polity that is depended on the inclusion of European citizens and their governments to make sure that Europe's diversity is reflected in the law-making. Hence, Iceta perceived the ECT as a step in the process of further institution building in Europe where citizens are presumed to act to ensure their enforcement onto EU policy-making. In this way, his conception is supporting the right-based notion, but in the same sentence, he said that the ECT *is founded on values and signals common goals*. These *values* and *goals* reflect a sense of togetherness that is believed to have arisen as a result of Europeans collective destiny and future common projects. In such a perspective, a collective self-determination is seen to engender a *we-feeling* inside the European institutional project.

7.2.3 The Canarian region

The last regional party in favour of the ECT was CC from the Canary Islands. They did not have any value-based arguments, but they described the EU as a rights-granter to the regions. In January 2005, the Canarian Statute (their political goals) was described as *leaving aside the Spanish Constitution* and that *its imperative character had been settled in the European Constitution* (EP 31/01/05). Later on, CC argued that the EU *recognises the best of the islands in the international sphere in their history* (EP 04/02/05a). According to the Canarian Government's homepage, *the ECT definitively recognised the Canarian ultra-periferic condition. The normative recognition the Canary Islands have achieved within Europe was undeniable*³³. A normative recognition involved being *European citizens in a territory geographically outside Europe*. By saying so, CC seems to appreciate that the EU recognises them. As this is based on an entitlement of being European citizens, it is seen as a support of the third model. Due to CC's periferic position, the ECT and the EU were evaluated as better protectors of the region than Spain was.

7.3 PSOE'S RIGHT-BASED ATTITUDE

The governing party and its leader presented the ECT some times as a proof of democratic progress and of a European citizenry. As for the application of the right-based strategy,

³³ <http://www.gobcan.es/reformaestatuto/reforma/europea.html> (2006, May 24).

arguments from Zapatero were more frequently observed than his colleagues. The section below is therefore divided into the Prime Minister's statements and then other PSOE-related participants in the debate.

7.3.1 Prime Minister Zapatero

One of Zapatero's first announcements about the ECT was in the Congress: *The widened Europe needs a Constitution, a new judicial mark that absorbs the citizens' aspirations and gives responses to opportunities and challenges of this new phase of living together* (CO 15/06/04). The Prime Minister is assumed to see the EU as developing into a post-national entity framed by a Constitution that is reflective of its citizens needs. It is reasonable to apply the right-based model to this statement. When he some months later in the Congress defended the regional autonomies' position, he spoke of this *new phase* in clearer terms. First, he said, *the ECT opens up rooms for regional participation, new rooms, where they have the right to form decisions in the EU sphere* (CO 22/09/04). By underlining the regions' rights to participate, the onus rests on private autonomy. Then he said, *no matter what ideology a person has (...) with an Europeanist determination, the person will recognise itself in the contents of the European Constitution*. He continued *the EU has been a grand project for Europeans and for all Spaniards; it has signified progress, democracy, strength in the world and values that you definitely share*. This last phrase indicates that a community of values has arisen between Europeans. These are not seen as rooted values, but as privileges the EU has established. The reason for supposing so is that Zapatero had already described the Union as an including polity as long as there was European vocation. With this, he predicted people to be self-conceived rights-holders. Zapatero presumes that there is a *we-feeling* among these right-carriers. This involves a judicially entrenched Union that has emanated from a broad public debate of Europeans as well as non-Europeans.

By looking at a later announcement, Zapatero pointed to the ECT as the answer to the EU's challenges *because it embodies a common space of peace, security, rights and liberties which are values the [European] Constitution defends* (EP 27/11/04). He continued, *the socialists must be the most powerful voice in the defence of the European Constitution*. The socialist stance was highlighted because they defend *social rights* he said. This utterance is interpreted as a right-based conception of the EU's legitimacy. He sees the EU as founded on common values that originate from the EU's judicial framework. These values are believed to work as guarantees as much as they have a uniting effect. A *we-feeling* arises when

citizens become self-conceived rights-holders, equivalent to Iceta's statement. That Zapatero urged the socialist stance to embrace the ECT is interpreted as speaking on behalf of this group and not that the European project is determined to fulfil socialist ideas.

Then finally, in an intervention (ZAP 01/03/05), Zapatero had an interesting comment. His statement was that *there is no contradiction between pertaining to Europe and the love for its own country*. He looks at Spain's relationship to the EU as a dual citizenship and says *when a citizen belongs to two units and not only to the national, the traditional way of looking at citizenship is changed*. The way a citizenship is described here, reveals an idea of a wider cosmopolitan conception of democracy. It is reasonable to see his legitimization of the EU as affected by deep diversity because fraternity to a nation and to Europe is merged into one concept of citizenry. He is assumed to posit an image of the EU that continues institution building and introduces a new way of looking at a citizenry. This image points at core aspects of the European process that have been predicted by the third model.

7.3.2 Other representatives from PSOE

Fernández de la Vega was earlier described as having a value-based posture, also when she compared the two Constitutions. However, it is reasonable to apply the third model as well. She said, *Europe is about an ideal; a common interest that goes beyond a market and the practical share of political values* and continued, *there will be no room for liberty, peace, progress and social justice, if not [Europe's] citizens engage themselves in its construction* (EP 06/11/04). When she evaluated the EU's citizens as indispensable in the formation of a legitimate Constitution, she legitimises the EU through rights. That she underlines *a common interest* gives associations to a European people that have obtained a *we-feeling*. Europeans' engagement in constructing an EU based on common values is seen to engender this feeling. She finally said that *the ECT strengthens the protection of regional and linguistic diversities* which reiterates a right-based attitude. The total impression of de la Vega's posture in this article is that she has a right-based legitimization of the EU. As she was presumed to regard the ECT as reinforcing the values of the Spanish Constitution, her posture changes from supporting the second to the third model. Her position is an example of how a person is believed to emphasise two modes of legitimization in the same setting.

A few days later, she claimed that Spain had had little public culture in foreign affairs. *We must now convert our external politics into the citizens' politics. And by the citizens. Because it is a democratic imperative* (Fernández de la Vega 2004:3). She went on, *to be a*

European citizen involves social safety. Even though there are divergent languages and cultures in Europe, the EU with the ECT protects these, the Constitution is a decisive step in judicial, political and symbolic terrains (...) among its main objectives are the definite incorporation of citizens in the European process (ibid:5). De la Vega allowed the European citizens to play a crucial role in the ECT and in the future EU process. Her understanding seems to be that the EU is contingent on compliance with fundamental individual rights. As such, private autonomy seems to be a core in her argumentation.

Garrido argued in the Congress (25/01/05) that the ECT is *a qualitative step towards a political Europe where specific universal values and objectives appear* and whose evolution would become of great importance for Spanish citizens because it would indicate the development of *a Europe of citizens*. He also told his audience that the ECT *would be superior to the Spanish Constitution*. Garrido showed a right-based attitude because he envisaged the Union to develop a particular set of principles that spurred the development of a European citizenship. In addition, he placed the ECT above the national Constitution. Later, this attitude was reiterated in El País (18/02/05a), where he described the EU *as the citizens' Europe absorbing the values of citizenship* and he called the ECT *the most inclusive and amplest Constitution ever known*. The ECT was hence seen as a Treaty that entrenched essential rights that fostered a European citizenship and that manifested the multitude of European diversity. On this basis, the right-based strategy is likely to be emphasised.

Foreign Minister Moratinos' statements were in the beginning presumed to have an instrumental character. The same day he guaranteed for Spain's interests, he was quoted in ABC (20/06/04b): *Accepting the Constitution is not about winning or losing, but about an enlarged view of the EU where new directions outweigh the lost benefits*. He warned about using *a calculator* and said that Spain would ratify the Constitution *because we have fulfilled our motive of European vocation and because we feel European* (ibid). Since he talks about *an enlarged view* of the EU *new directions*, it might indicate a process of institution building. At the same time, his statement may refer to how Europe's historical roots have given the membership a deeper meaning as they seemed to always have been Europeanists.

Five days earlier, Moratinos urged the Spanish people to *involve themselves more in the citizenship in order to construct, together with the Governments, a European project*³⁴. He

³⁴ <http://www.ucm.es/cgi-bin/show-prensa?mes=06&dia=15&ano=2004&art=70&tit=b> (2006, September 26)

pointed to the *European federalist spirit* as a stimulus to citizens' engagement. His statement can be interpreted in two ways. First, Moratinos may have had a European citizenship in mind that was founded on multiple identities and their local political representatives (as in *Governments*). European citizens would be inspired by a *federalist* idea and seek to enlarge the Union's capabilities and areas of competence (*the European project*). Second, a *federalist spirit* does not necessarily point towards a post-national polity. Moratinos might have referred to the Spanish citizenship and to their State Government. A federal Europe would be based on an interaction between Member States and their concomitant citizens. This would be an underpinning of a functional Union that was dependent on its members. However, the point is to illustrate how *European federalist spirit* does not necessarily imply a cosmopolitan idea of the EU. Yet, when we look at further utterances from the Foreign Minister, it is reasonable to depict his posture as supporting the right-based strategy.

In the Congress (18/10/05), he was worried about the EU reducing into a mere market. *This new phase of European integration could not land without its citizens*, referring to the citizens of *los pueblos*. Here, his focus rests on private autonomy while the regions' (*pueblos*) role supposes a Europe based on stateless borders. One month later, he called the ECT *a demonstration of how the citizens of Europe are involved and reflected in the EU as opposed to the Member States* (EM 14/11/04). Altogether, Moratinos seemed to depict the EU as allocating competences between different levels of government and urge Europeans to recognise as relevant to the construction of a European polity. His focus rested thus on the relevance of regions to be politically activated. This portrays Moratinos' attitude as fortifying the right-based notion of legitimation.

Camilo Nogueira, an ex-deputy from the Galician Socialists, uttered that *the consolidation of the Union, with diminishing historical frontiers and the creation of a European citizenship, establishes a skilful and achievable pathway towards a direct election of a Parliament that will make use of the already written Constitution (...) where its unity is affirmed and where the diversity of all European "pueblos" are absorbed* (EP 14/02/05). Here, Nogueira depicted the ECT to be leading the EU towards a more institutionalised polity and towards a post-national entity with a direct Parliamentary election. He predicted borders to disappear and a European citizenship to arise. This fosters an idea of a wider cosmopolitan Union. In the same article, he thanked Europe's social traditions for allowing *Europe to start to*

constitute one of the poles with reference to the superpowers. Even though he appreciated Europe's *social traditions*, he is assumed to predict a post-national destiny of the EU.

According to the Secretary for Equality (PSOE), Soledad Murillo, *the ECT is more specific and effective concerning female and equality rights compared to the Spanish Constitution* (EP 07/02/05b). She complained about Spain's equality conditions where there is an *enormous resistance towards employing women* and there is twice as much female than male unemployment. *Spanish women have a lot at stake with the approval of this Constitution*, she finally said. The ECT provided equality rights that seemed to be better than those the Spanish Constitution defended. When European rights are evaluated as better protectors of females in the Spanish society, the third model's concept of public autonomy is underpinned.

A similar view of the EU was detected in Elena Valenciano's utterances, a Socialist party-member. In an article in *El País* (07/02/05a), she claimed that European rights appeared to be more sensitive to the values of feminine rights. She also claimed that *Europe needed support from its citizens in order to secure a European project*. *Since no one in the Union feels more Europeanists than us Spaniards, the Treaty ought to be backed by us*. Here, she sees that the EU shows reciprocity towards Spanish women and takes up the issue of public autonomy. She pictures the ECT as made *by and for the people*. Her formulation of an Europeanist vocation stems thus from a right-based legitimation of the EU.

The Spanish Minister of Culture, Carmen Calvo, praised the ECT *for being the first normative document that involves compulsion and that it is obligated to attend the cultural demands of the citizens* (EP 27/01/05). She further admitted that *the ECT absorbs different cultures and manages to be responsive to this diversity*. Calvo saw it as possible to defend a European unity while respect the diversity of each society. When she described the ECT as reflecting the common will of European citizens despite their pre-political values and cultures, she posits a legitimation through rights. That she additionally regarded the Treaty as obligated to reflect the citizens' voices refers to a mutual interaction between the European public and decision-makers. This idea does also emphasise the right-based model.

7.4 PP'S RIGHT-BASED ATTITUDE

Only one member from the Popular Party was found to utter a right-based argument. García-Maragallo wrote an article about the ECT in *El País* (18/02/05b). His ambition was to deny that the EU was a *gigantic supermarket without political control*. He explained that *the idea*

of Europe springs from a political reflection that advances slowly towards a political union. The EU is founded on its interior territorial objectives such as peace, people's well-being, internal market, sustainable development (...) economic cohesion and respect for cultural diversity. He further said, *the EU's external goals are the protection of human rights and observation of international law.* To García-Maragallo, the Union's goals seem to concern every European citizen, no matter cultural origin. This is thought to reveal the rights-based orientation of his utterance. At the same time, he envisages the EU project to develop towards a union that is based on certain core objectives; *Europe signifies democracy, liberty and respect for other's rights.* These can be understood as a set of fundamental rights that all self-conceived European right-holders are entitled to employ.

What is interesting about his opinion is that it did not emphasise any national interests. If we look at his position as a Euro deputy, this forms perhaps the reason to a fairly untraditional statement for being a PP-member. His relation to the EU gives him perhaps a more complex image of the European project which makes him less focused on the nation-state's benefits and more Union-oriented. Considering this, he is perhaps not a very good representative for PP's general position. This has already been suggested as it was *the only* argument from the Popular Party that allowed application of the third model.

7.5 THE GENERAL PUBLIC'S RIGHT-BASED ATTITUDE

Outside the political establishment, there were several arguments found that pointed towards a right-based legitimization of the EU. First, we look at some qualitative cases from El País.

7.5.1 *The general public in the newspapers*

Juan Manuel Fabra Vallés, President of the European Court of Auditors, referred to the ECT as confirming a *political, economic and social model that describes a united continent of diversity* (EP 24/12/04). He envisaged an approved ECT *to convert into the fundamental charter for all European citizens, like the national Constitutions are today.* Fabra Vallés placed the European project above national control that is united by its differences.

Álvarez-Arenas, a member of the 'Spanish Real Academy', wrote an opinion in El País (31/12/04) where he clarified how the Constitution was a part of being European in Europe: *To belong to Europe implicates to live actively now and to have lived actively in the past.* He described the EU *as a human union, a fusion of people's ideals, convictions and beliefs*, but he admitted it was a fusion of differences and individualities. His opinion is believed to take

a right-based position because he refers to an active European people. He also says that the ECT makes Spaniards feel European and to act like European citizens. An EU that represents a community of an active demos and that absorbs the basic needs of every European identity, engenders an image of a post-national entity. Also, when he said *human union* it gives the impression of an EU based on individual integrity. Even though *rights* or *European citizenship* was mentioned, his portrayal of the EU reflected a *fusion* of people that apparently saw themselves as the addresses and authors of European policy-making because they *lived actively*.

A representative from the 'Association of female victims of violence' said, *the European Constitution is a step towards equality* (EP 13/01/05). Just like Murillo and Valenciano, the EU was seen to provide specific equality rights that would surpass the Spanish law because they were more relevant and better adjusted to women's reality. It was also argued that the ECT would give more rights to homosexual people. The Constitution was called *a good instrument to obtain rights* for this group of people (EM 06/02/05).

A candidate from European Syndicate Confederation, Méndez, described the ECT as *a great tool in the defence of the European social model (...) the ECT recognises new employment and social rights that Spain has not made constitutional* (EP 04/02/05b). He portrayed the Treaty as a better reflection of the Spanish citizens' anticipations and claimed that the ECT supported *non-discrimination of origin* because *the Constitution recognises the right of those who legally reside in the Union (...) to receive social security services*. He also called the ECT a *human necessity*. Méndez approached the EU with a quite clear-cut conception of the EU. He regarded its judicial framework as more responsive to the Spanish people and underlines that everyone is entitled to EU rights, no matter origin. There is an underlying tone in the whole article that demonstrates a degree of ascendancy European law gradually employs over national jurisdiction. Thus, his position highlights clearly the third model.

A Professor in ethics and political philosophy, Adela Cortina, sought to describe the *European identity* in an opinion article in El País (08/02/05c). Here, Europeans were thought to obtain dual identity; a national and a European one because the Treaty absorbed shared values that manifest the common foundation of all Europeans - *respect for human dignity, liberty, democracy and equality*, she said. *This set of fundamental rights build the common ground for the European identity*. A European identity is thus formed by the establishment of common values into rights. The ECT was seen as such a foundation. When she continued

that *there is a dynamic between the existing values in the European countries and the EU's judicial framework*, she employs a receptive character to the EU polity. These values are not seen as rooted values, but as the reflection of an active European people that are cognisant of their entitlements and their act of enforcement on EU law. For this reason, Cortina is seen to have a right-based conception of the EU's legitimacy. She even predicted the ECT to *generate a cosmopolitan citizenship in the future*, which reiterates this legitimization mode.

Óscar Alzaga Villamil, who is Professor in Constitutional Law, wrote an opinion in El País February 12. He pictured the ECT as a judicial utility resort that would deepen the notion of a European citizenship. *We have to equalise the fruits that emanate from the fundamental rights with our neighbours and permit ourselves to receive the Treaty's advantages* (EP 12/02/05b). He also said that the EU must involve public opinions in the future to gain legitimacy and *involve transferring sovereignty of certain political areas to European institutions*. The Professor envisages Europe to develop into a right-based unity that offers a set of unique rights. *The fruits* are interpreted as privileges or rights that are manifested as a result of a deeper institutionalisation of the EU polity. As EU members are also predicted to transfer certain political control to Union-level, his conception of the EU emphasises the right-based notion of legitimization.

An interesting description of the EU's character compared to the nation-state was written by the journalist and philosopher, Josep Ramoneda. By implicitly favouring the ECT, he criticised the ones that calculated the Union's political purpose (EP 17/02/05c). He explained how one should comprehend the European project in a wider perspective. *It will never be a fatherland (...) because Europe has not closed or defined its borders (...) the EU is defined by its formal and open character that does not claim to impose a unilateral ambient*. The underlying theme of the article was Europe's character of including everyone who wanted to join disregarding their culture, language or nation. This is exactly the onus of the third model. It predicts the EU polity to have an *including* personality.

7.5.2 *The general public in the questionnaires*

If we look at the available quantitative data, few utterances pointed towards evident right-based conceptions. However, some questions indicated a legitimization through rights. In the CIS (2005:P31), data reveal that 23 per cent of the Spanish people *wanted the EU to have a true Government that would take the decisions* (the EU-answer) while 58 per cent thought the *Member State's Government should have the last word* (Member State-answer). As the

question included all types of voters, the researcher made a cross tabulation (Figure 7.1) of the voting pattern (P11) and this question (P31). The result of this indicates a slightly higher percentage of Yes-voters among those who chose the EU-answer (78%) compared to Yes-voters that chose the Member State-answer (71%). The tabulation also shows highest correlation between voting Yes and choosing the EU-answer. However, the formulation of the alternatives may have had some implications on the respondents. To agree with a *true European Government* is a fairly strong statement that may have created a frightening image. If the alternative were: *The EU ought to have a government that takes the final decision*, it is likely that more people had agreed to this. The EU is then presented as less state-like, but with ascendancy over national sovereignty.

What may strengthen the insinuations made above is a question from the first CIS (2004:P17). The people were asked which argument they agreed with: *It would be good if the EU formed gradually into a federal Europe with powerful competences* or *In the future, each State must continue to maintain the major part of its competences*. While 34 per cent agreed to the first, 48 per cent agreed to the last. Since these people had not voted yes, this question is not that relevant for this study. However, as it is seen to strengthen the latter CIS-finding, it has been included. After a cross tabulation (Figure 7.2) of this question (P17) and the question about what they would *vote if the referendum was that day* (P5), the outcome was as predicted. There was a higher tendency of favouring the Treaty and answering *Europe* in P17 (49%), than answering *State* in P17 (40%). This demonstrates again a correlation between an ECT-support and wanting the EU to develop into a federal system. Nevertheless, these cross tabulations only give us an indication of how the ECT-supporters have a tendency towards favouring a federal Europe rather than a stronger Spanish State.

Then, another data that perhaps indicates a right-based notion of legitimization comes from the CIS 2005. Spaniards were here asked to tell *why they voted Yes to the ECT* (P11a). They were confronted with seven alternative answers. The third highest percentage (15%) chose the alternative: *The ECT creates a European citizenship*. Considering the number of alternatives, 15 per cent is a significant amount. However, to believe the creation of a European citizenship does not necessarily demonstrate a right-based understanding of the EU. People may misunderstand the term and think that it involves just feeling as a part of Europe. Notably, previous European studies show that there is a tendency among Spaniards that to want to establish a European citizenship (EC 2001:10-11). Then, the alternative that

prompted most agreement (38.7%) was: *It is indispensable in the continuance of European construction*. This may also have an indication of the third model. The Spanish people might see the EU project as a process of deeper institution building. If so, it would locate a rights-induced attitude among the Spaniards.

Finally, the Report (2005:Q6f) tells us that 88 per cent of those who had voted Yes agreed that the *adoption of the ECT would strengthen democracy* (Q6). If *democracy* is interpreted as Europe's democracy, it permits application of the third model. A more democratic system in Europe would imply increased public participation on EU level and thus more public influence on EU decision-making. If the respondents evaluated this aspect as inbuilt in the question, the third model is emphasised. However, *democracy* may also be interpreted as Spain's democracy. This is reasonable if we think about how the EU membership has motivated Spain to develop democracy since Franco's regime seized. Democracy would then be connected to domestic structures. This viewpoint legitimises the EU through its outcomes as it strengthens the nation-state rather than the EU community.

If we take a closer look at this question, it appears quite inconsistent and unreasonable to vote Yes for the ECT and then answer that it does *not* strengthen democracy. Put in other words, there may be an obvious coherence between approving the ECT and regarding it as good for society, which makes the answer to this question fairly predictable. Then we could question, did these people know enough about the ECT to evaluate whose democratic structures it would improve? The Report provided a cross tabulation of *agreement* (Q6) and their *knowledge of the Constitution*. This revealed that a larger number of those with *good to very good knowledge*, agreed with its effects on democracy. This makes it more reliable to say that those who saw the ECT as a way of strengthening democracy had a good knowledge of the Treaty. And since the ECT actually focused more on the improvements of the EU's democracy than on the Member State's democracy, this strengthens the idea that people who agreed to Q6, referred to the Union's democratic structure.

8. How did the No-stance argue?

In the beginning of this thesis, there were made some assumptions that indicated which parts of the Spanish population were anticipated to vote Yes. It was assumed that the regions would feel a particular connection to the EU community and to its judicial system. This led to an approval of the ECT. The reason for pointing out the No-stance is to correct the third assumption and introduce an image of the Spanish population that maybe makes the evaluation somewhat different.

Among the regional parties, five smaller ones rejected the ECT in addition to the Basque separatist group ETA. It is noteworthy that these did not call themselves anti-Europeanists in the ECT-campaigns. The Catalan party ERC and their leader claimed that *they would vote Yes to Europe but No to the European Constitution* (ESC 03/10/04). They also uttered that *Europe provides the frame where they can express themselves rightly as nations* (EP 30/01/05b). Carod, the party leader, warned the Prime Minister that his party would not approve the ECT unless Catalan was officially acknowledged by the EU³⁵. ERC also complained about the lack of social rights in the ECT and claimed it was made by right-winged politicians (EP 05/02/05b). The party's EU deputy, Bernat Joan, said that *their No was a vote of Europeanist responsibility because (...) it is a constitutional treaty between States and not an authentic Constitution* (EP 22/01/05). On basis of these utterances, ERC seems to have wanted a more definite judicial enclose of their nation. They wanted an EU that showed more responsiveness to European regions. Their conception of the EU was thus seen as rights-induced.

ETA rejected the ECT because *it did not recognise the rights of the Basque citizens* and they called the EU *the grand prison of the peoples* (EP 09/02/05). This shows a similar opposition as the one of ERC. Their legitimization of the EU seems to be grounded in an idea of a defending, right-based and supranational entity where regions are equally treated as the Member States. PNV was at first opposing the Treaty. Their reason for rejecting it was that they supported a *European project without borders where all languages deserve respect*³⁶.

³⁵ http://www.europadelospueblos.net/egunkaria_visor.php?DokId=7&Hizk=Cata (2006, January 13)

³⁶ <http://www.ucm.es/cgi-bin/show-prensa?mes=06&dia=2&ano=2004&art=30&tit=b> (2006, September 13)

9. Concluding remarks of the Spanish utterances

Three models have been used to assess Spanish Yes-arguments and announcements that have allowed an interpretation of the people's conception of the EU. The main purpose of this study was to endeavour a nuanced answer to the question: *Which conceptions of the EU's legitimacy motivated the Spanish people to vote Yes to the ECT?* It is now due time to evaluate the different models and map the Spanish tendency. It is though *not* my intention to land on *one* strategy, but to evaluate which one appeared more often in certain occasions.

9.1 EVALUATION OF THE FIRST APPLICATION

It was possible to detect instrumental ideas of the EU both on the political and public level. PSOE and the Prime Minister emphasised that the EU had contributed considerably to ensure Spanish wealth and progress. While one of eleven statements pointed towards a mere calculative view of the EU, the other ten, revealed that they did not *only* see the Treaty in a cost-benefit perspective. A statement did usually start to mention tangible benefits about the membership or the Treaty. Then, they pointed towards an Europeanist vocation or an adherence towards the Union. This made the problem-solving model fall short of describing PSOE's posture. However, it is important to delineate that their statements *did* occasionally involve focus on national benefits some times.

The opposing party, uttered more arguments on how Spain had to defend national interests in their support of the ECT. Even though they evaluated the ECT as good for all Europeans, there was a clear message to the party in power that they ought to think of what was best for Spain. The party leader, Rajoy, did also depict the ECT as a good instrument in the struggle against regional desires for self-rule. An impression from PP's statements was that they did not call themselves *anti-Europeanists* (although no statements said that they *were* Europeanists), but that they ought not to forget what was best for the country. An underlying character of PP's attitude was preservation of national interests and an intergovernmental view of the EU. This made it easier to apply the first model to their arguments.

The regions were not found with any arguments that would allow an application of the first model. The quantitative data however, may have pointed at a tendency among the Spanish general public that was instrumentally oriented towards the EU. Two questions allowed us to

apply the problem-solving model to the public sphere, but there was still strong hesitation connected to their ability to present a clear cut problem-solving perspective.

9.2 EVALUATION OF THE SECOND APPLICATION

It was demonstrated that there was a high degree of Europeanism among the Spanish people. A great deal of the utterances that revealed an Europeanist vocation, pointed towards a community-feeling that was founded on memories, common culture and ethical values. It was also detected that a feeling of unity, responsibility and adherence to the EU, formed this Europeanism. These people regarded the EU as manifested on a ground of common values.

First, informed by deep diversity, while the Basque and Catalan parties defended their regional identity, they often connected to the EU's historical and value foundation. It was of great importance to all three parties to obtain recognition of their regional languages. This recognition was some times seen to emphasise the value-based model. Europe was seen to give them a second option in recognising their identity and culture which Spain had failed to do. When they achieved responsiveness at EU level, set of shared values between the regions and Europe was detected. As a result, a *we-feeling* arose. Terms like *patrimony*, *mother country* and *model* were also used to describe the EU. Such vocabulary was seen to highlight basic elements in the second model. This leaves us with a model that to a certain extent managed to reflect Basque and Catalan perceptions. However, many statements from the regions referred to Europe's judicial framework when they sought recognition. The concept of deep diversity was as such not only revealing a European adherence that had sprung from mutual respect and common values.

PSOE emphasised clearly an Europeanist vocation that some times allowed an application of the second model. While the ECT-vote appeared to be *the* opportunity to appreciate European form of life, it also appeared opportune to demonstrate Europe's strength and unity compared to the rest of the world. This positive identification of Europeans appeared frequently in PSOE's statements compared to other parties. Together with seeing the ECT as a reflection of historical and cultural coherence between Europeans, PSOE seemed to emphasise the value-based strategy to a considerable degree. This became even more evident when we analysed the Popular Party's statements. Even though some arguments portrayed the Treaty as strengthening European values, PP's support of the Treaty seemed to depend

on a protection of national interests. Their occasional emphasis on Europe did thus not allow a complete application of the value-based notion of legitimation.

To a certain extent, it was possible to detect a legitimation through the EU's values among the general public. While showing solidarity seemed to be one of the main reasons for ECT-support, there was also a tendency of looking at the EU as a community that was growing stronger than rest of the world. With support from earlier studies, it was also demonstrated that Spaniards have tended to relate certain values to the European project. However, like the other employments of the quantitative data, there was uncertainty connected to the findings.

9.3 EVALUATION OF THE THIRD APPLICATION

The comparison between the national and European Constitution showed that only a few statements portrayed the ECT as a prolongation of the national Constitution and refused to revise it. More statements pictured the ECT to be superior to the Spanish Constitution. These utterances were seen as emphasising the third model as the majority of the utterances *did* see it as necessary to reform the national charter if any adjustments were to be done. The Professors that made this comparison have supposedly analysed the ECT quite well and their opinions are thought to be representative for the political stance and the general public. However, although it appeared as quite serious steps to take to adjust Spain's Constitution, one must bear in mind that they were talking about reviewing *one* sentence.

It was quite obvious that there were more statements from the Basque and Catalan political stance that emphasised the right-based notion of legitimation. They regarded the ECT as a step towards an enlarged European institutional frame. This was evaluated as convenient for their regions as they predicted it would increase the possibilities of protection of regional development. The Catalan parties seemed to talk more about making a Europe without frontiers because the EU polity guaranteed diversity and made the regions see themselves as constitutive of the right-based entity. The Basque party appeared more focused on increasing their autonomy. PNV's report evaluated the EU as an entity of nations where each nation was recognised. This would engender self-rule for the Basque region. Notably, both PSOE and PP appreciated how the Treaty hindered such separatist ideas. A reasonable explanation to this contradiction is that the regional parties foresaw a change in citizenship rather than an exclusion from Spain. The EU offered a set of political rights and guarantees which rendered the regional identifications reflexive. The ECT did also represent a framework on security

that would work against separatist struggle, but not against an individual process of self-conceiving right-holder. In this way, the regional parties as opposed to PSOE and PP are thought to be concerned about in two separate matters that also would emphasise two different modes of legitimation. The contradiction results in *one* conflict with two solutions.

Statements from PSOE could often be linked to a right-based notion. The ECT was seen as an element in the process towards a strengthened EU institution building. It was also about a defence of the plural identities in Europe. Zapatero described the ECT as introducing a new type of citizenship which underlined the EU's particular set of citizen rights. There were quite a few PSOE-representatives that spoke in the Congress with ideas connected to a supranational EU. This made it easier to employ the third strategy to PSOE's argumentation. The Popular Party approached the ECT-debates with less focus on what sort of judicial framework the EU presented. There was only one right-based statement notably emanating from an EU deputy. Altogether, PP seemed less involved in the EU as a post-national and law-creating entity which corresponds well with my judgment of them as supporting an EU of intergovernmental character.

Finally, the general public was divided into two sections where the first one, emanating from El País, gave the best portrayal of the Spanish public next to the questionnaires. These non-political debaters appreciated particular European rights that they meant were reflexive and sensitive to the current Spanish society. They represent the more active part of the public as they are related to associations and trade union, but still, they are presumed to channel the public voice to a significant extent. The questionnaires indicated that there was a some relation between voting Yes and seeing the EU as receiving more decision-making power. The impression was that Spaniards were cognisant to which type of polity the ECT spoke.

9.4 CONCLUSIONS

The use of the three models equipped the researcher with an analytical tool that has proved different modes of EU legitimation. The overall impression of the Spanish Yes-vote is that was motivated by a value-based and right-based legitimation of the EU more than by a result-based legitimation. For this reason, the Popular Party's argumentation eventuates as somewhat exceptional to what the Spanish tendency seems to have been. That they had an opposing position and was the second biggest party may have affected their way of arguing. PP's Yes to the ECT did implied less EU related issues compared to other parties as

demonstrated. Closa and Heywood's description of PP's character was thus supported. In addition, when PSOE defended their Yes in an instrumental way, this is not considered to weaken the application of the other two models to PSOE's posture. Still, it is seen as a relevant observation that they did not always approach the EU in value- or right-oriented terms. As for PP, they argued mainly through the calculus of costs-benefits. The few times they emphasised elements in the other models, it gave us a more complete picture of PP's general attitude, but the application of the first model is still not significantly doubted.

The quantitative data seemed to underpin what the political establishment had uttered. Despite analytical difficulties connected to the quantitative analysis, the utterances from the general public in El País and the findings in the questionnaires appeared as quite consistent with the political arguments. This supports my assumption on a political establishment that would reflect a large part of the public voice. However, the regional voice did not have any support from the quantitative data. This might be a weakness to the reliability of findings based on the regional parties which ought to be considered in the evaluation of a *general* posture of the Basques, Catalans and Canarian people.

A generally high degree of Europeanism inbuilt in Spaniards' minds and hearts was already well-known and measured before this study took place. This analysis reaffirmed this Europeanism, especially in PSOE's approach to the ECT and the EU. The newness of this research though, is that it has proved a particular connection between the different regional layers of the Spanish society. Whereas they had been characterised as below the average of feeling European in previous studies their statements about the ECT revealed quite the opposite. Their motivation to support the Treaty rested mainly on the value-based and right-based impetus of the European polity. This idea was strengthened when we had a look on the No-arguments from the regions. In general, the regional stance appeared as concerned in pursuing a process of European institution building and in giving the EU's judicial framework ascendancy over national law.

The political establishment and their statements were quite often pointing towards different conceptions of the EU's legitimacy. It was not even found significant changes of their statements over time. However, there seems to be two reasonable explanations. One, the utterance was affected by the particular context and social expectations, and was therefore not representative for the person's general posture. Two, the person did not have a clear cut and complete picture of why he or she voted Yes. As we saw, statements from PP appeared

inconsistent in their way of approaching the ECT. Was their Yes a No to the Government or did their decision leave out domestic politics? Three, the operationalisation of the models was not good enough to interpret the people's utterances. This was often the case when statements allowed application of the second and third strategy at the same time. In one setting, the person could emphasise European history and shared cultural principles. In another setting, the same person could envisage the EU to establish a proper set of values that were reflexive of the European multitude today. Four, the way to operationalise the second model is founded on a set of mechanisms that seems to conflict with the operationalisation of the third model. The two latter points will be further looked on below.

The regional parties suggested an EU orientation of deep diversity as they manifested a belonging both to the regional and European polity. The onus of legitimacy was therefore on how national identity was fortified together with European allegiance. It was some time difficult to analyse such a combination. As we have seen, PSC's leader Maragall called Catalonia as *traditionally Europeanist*. This does probably imply that Catalonia's connection to Europe's history has engendered certain *rooted* values that make the region *Europeanist*. At the same time, Maragall legitimise the EU through its rights by saying *The EU will continue our Catalan project*. This caused difficulties in deciding which legitimisation mode actually described his posture.

This challenge made the researcher look more carefully at the operationalisation of the two models. In chapter 2, there were made some suggestions of how one strategy was expected to appear in the Spanish debates and gain support. It is possible that this operationalisation was not specific enough. I could perhaps have stipulated more clearly, which terms or attitudes had to inform the statement in order to support one of the models. At the same time, this could be a vain attempt especially in regard with the second strategy. Each statement was a unique way of referring to personal values and feelings. It often required a complete understanding of the person's aspirations to make use of its argument.

The abovementioned challenge did also make the researcher scrutinise the very mechanisms forming the prospects of the EU's legitimacy. It was mainly the second and third model that had generated difficulties. The value-based legitimisation required statements to describe the people's identity, their feelings of belonging or their ethical values which they knew they shared with other Europeans. The right-based model required statements to reveal that the person was engaged in the EU's law and that European rights were responsive to his or hers

preferences. Whereas the third model focuses on the EU's structural and institutional foundation where participation and deliberation are core elements, the second model focuses on the intersubjective shared values and traditions that are constitutive of Europe more than on specific formulas of politically organising the EU. Considering this, there seems to be considerable difference as to what mechanisms found the two legitimisation modes. The consequence might have been that certain utterances in the Spanish debate gave emphasis to a value-based and a right-based conception of the EU at the same time.

Finally, in my opinion, this analysis has proven that there is a *tendency* of legitimising the EU towards a new way. Even though the Spanish people seem not to have forgotten the many benefits Spain has received from the EU, it is also about a European feeling that has engendered responsibility and appreciation among Spaniards. The Spanish people *feel* European. They have demonstrated that they want to be constitutive of a polity that is founded on European fundamental principles and rights. It also appears as if they are cognisant of the emerging entity the EU is evolving into; being something else than a state, but more than an intergovernmental organisation. At the same time, there was a certain inclination of connecting the ECT to national benefits. Yet, those arguments did not seem to inform a general attitude among the Spanish Yes-voters. Then, the regional representatives seemed convinced about the ECT's responsiveness towards their identity and dignity. Though through deep diversity, the Basque, Catalan and Canarian people appeared emotionally inspired and engaged in the direction of European political and judicial development the Treaty was indicating. Compared to previous studies, this regional connection to Europe seemed to be out of the ordinary.

On the basis of this, I am inclined to deduce that the Spanish conceptions of the EU's legitimacy have transcended considerably beyond the problem-solving notion of legitimisation. It has proved that the Spaniards perceive the EU as moving towards a community based on socio-cultural roots and with the capacity of including and responding to the very multitude of identities in Spain.

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 24/05/04 "Carod adverteix (...) votar no o abstenirse en el referèndum"

20/06/04	“Moratinos afirma que España será uno de los primeros países en ratificar la Constitución”
08/07/04	“La Constitución europea en serio”
17/10/04	”Estamos más cerca del final de ETA”
30/10/04	“Zapatero quiere que España se sitúe en la vanguardia de la construcción europea”
31/10/04	”Rajoy pide que el Constitucional opine sobre la Constitución europea antes del referéndum”
06/11/04	”De la Vega alerta de que votar contra la Carta Europea sería un ”paron” para la UE”
15/11/04	“Zapatero agradece al “PP de Rajoy” el ‘sí’ a la Constitución europea”
27/11/04	“Los socialistas europeos cierran filas en defensa de la Constitución en Madrid”
29/11/04	”Imaz afirma que Euskadi tendrá pronto ”vida propia” en sus siete ’herrialdes”
03/12/04	“El PNV apoyará la Constitución Europea porque ‘no es un obstáculo para el nacionalismo’”
13/12/04	“Hay que reformar la Constitución?”
15/12/04	“El Constitucional cree compatible con el derecho español la primacía del Tratado de la UE”
19/12/04	“El nombre de la cosa”
24/12/04	“Símbolo y reafirmación del proyecto europeo”
26/12/04	”La nueva Europa enfila su futuro”
31/12/04	”España en Europa”
04/01/05	“Mas anuncia hoy públicamente su apoyo a la Constitución europea, un mes después de dar el ‘sí’ ante Moratinos”
10/01/05	”Blanco critica a los que piden apoyo financiero de la UE y ahora rechazan la Constitución europea”
11/01/05	”Pujol sale en apoyo de Mas para lograr el aval de CDC al tratado europeo”
12/01/05a	“Intelectuales y artistas, con la Constitución europea”
12/01/05b	“Una Europa unida hará una España unida”
12/01/05c	“Maragall pide el ‘sí’ para la Constitución europea como un eslabón hacia la Cataluña futura”
13/01/05	“Famosos a favor de Europa”
14/01/05a	“Constitución europea”
14/01/05b	“Constitución europea: sí, no, abstención”
19/01/05	”Nacionalismo vasco y Constitución europea”
22/01/05	“Esquerra proyecta una campaña de 400 actos contra la Constitución europea”
24/01/05	“Maragall proclama al PSC heredero de la tradición europeísta catalana”
25/01/05	“CiU aprovechará la campaña del referendun para criticar al tripartito”
27/01/05	“Carmen Calvo pide el sí a la Constitución porque favorece la cultura”
29/01/05	“CiU celebrará actos con el PNV en la campaña del referéndum”
30/01/05a	“Castells califica la Constitución europea de “gran proyecto de las izquierdas”
30/01/05b	“El Bloc y Unión Valenciana defenderán el ‘no’ a la Constitución europea”
31/01/05	“El Gobierno considera inconstitucional y “filosoberanista” el nuevo Estatuto canario”
02/02/05	”Las grandes empresas apoyan la Constitución europea”
03/02/05	”Blanco pide una amplia ventaja del sí a la Constitución europea”
04/02/05a	“CiU pide un ‘sí’ sin complejos y el PNV da su ‘apoyo crítico’”.
04/02/05b	”La Constitución defiende nuestro modelo social”

05/02/05a	“Rajoy pide el ‘sí’ porque “Europa es más importante” que castigar a Zapatero”
05/02/05b	“Puigcercós defiende el ‘no’ de ERC a la Constitución porque está hecha ‘a la medida de la derecha’”
06/02/05a	“Moratinos anima a los andaluces a votar a favor de la Constitución por las mejoras proporcionadas por la UE”
06/02/05b	“Rajoy replica al presidente que “su adversario en el referendum no es el PP ni los católicos, sino sus socios”
07/02/05a	”Las mujeres y la Carta europea”
07/02/05b	“Las mujeres nos jugamos muchísimo en la Constitución”
08/02/05a	”El PP cree que es incuestionable su apoyo a Europa y al nuevo Tratado”
08/02/05b	“Imaz dice que la Constitución europea es un paso en ‘la dirección correcta’”
08/02/05c	“Europa: oportunidad y compromiso”
09/02/05a	“ETA rechaza el Tratado porque no recoge los derechos de los vascos”
09/02/05b	“Rajoy: ‘El PP pide el ‘sí’ a la Constitución europea. Se entiende?’”
12/02/05a	“Maragall: “Cataluña quiere verse en el mosaico europeo”
12/02/05b	“Carta abierta a un euroescéptico”
13/02/05	“Nacionalistas del ‘no’”
14/02/05	“Europa, Europa”
15/02/05a	“Solana pide el ‘sí’ para reforzar ‘la forma europea de ver el mundo’”
15/02/05b	“Las razones del ‘sí’”
16/02/05a	”Rajoy emplaza al Gobierno a evitar un recorte brusco de la ayuda europea”
16/02/05b	“En la UE podría encajar una Euskadi independiente”
17/02/05a	“Acebes afirma que Zapatero convocó y es su responsabilidad animar la participación”
17/02/05b	“El modelo de la Constitución europea”
17/02/05c	”Europa, identidad abierta”
18/02/05a	“No conozco otra Constitución más progresista”
18/02/05b	“Pues va a ser que sí”
18/02/05c	”Maragall afirma que la patria ya no es Cataluña ni España, sino Europa”
19/02/05a	“Camps: “Decir sí a esta Constitución es decir no al Gobierno de Zapatero”
19/02/05b	“El referéndum de Zapatero”
19/02/05c	“El mundo no debe estar guiado sólo por EE UU y la UE”
22/02/05	“Duran discrepa de Mas y afirma que el resultado del referéndum no fue un ‘sí’ crítico sino ‘contundente’”
04/03/05	”Europa, pueblos y ciudadanos”
04/06/05	“Liderar el ‘sí’ a la Constitución europea”
08/11/05	“Amor califica como un hito el acuerdo suscrito entre el Gobierno central y la UE sobre lenguas cooficiales”
05/02/06	“El PSOE afirma que el ‘sí’ es una ‘respuesta solidaria’ a la Constitución europea”
ESC:	www.esquerra.cat
03/10/04	“Carod proposa crear una plataforma catalana contrària a la Constitució europea”
LR	La Razón
31/10/04	“Rajoy reclama a ZP que la consulta al TC sea anterior al referéndum europeo
10/11/04	“El PNV votará «sí» al referéndum de la UE para que se acepte el Plan Ibarreche”
12/01/05	“Maragall dice que la Constitución Europea favorece la personalidad de Cataluña”

SN:	El Senado
25/05/04	Número 4, Sesiones plenarias celebradas VIII legislatura
SH:	The Spain Herald
18/02/05	"Isolation"
ZAP:	José Luis Rodríguez Zapatero
14/11/04	"Intervención de Rodríguez Zapatero en las jornadas sobre la constitución europea" (2006, April 6) [online] URL: www.psoe.es/download.do?id=20048
17/10/04	"La identidad europea se asienta en los valores irrenunciables de la cohesión social y el Estado de bienestar" (2005, October 19) [online] URL: http://www.es-ue.org/DefaultPrint.asp?newid=-1&l=2
15/01/05	"Intervención de José Luis Rodríguez Zapatero en la V Convención Municipal del PSOE" (2005, August 23) [online] URL: http://www.psoe.es/ambito/estepona/news/index.do?action=View&id=43880
01/03/05	"Intervención de Rodríguez Zapatero en la Asamblea Nacional francesa" (2005, August 23) [online] URL: http://www.psoe.es/ambito/saladeprensa/docs/index.do?action=View&id=47209

Quantitative data comparison between El País and Le Monde

El País:	20/01/05 till 20/02/05	Number of times:
Search on <i>Constitución europea</i>		433
Search on <i>Tratado constitucional europea</i>		22
Search on <i>Tratado europeo</i>		50
	<i>Sum:</i>	<u>508</u>

Le Monde:	28/04/05 till 28/05/05	Number of times:
Search on <i>Constitution européenne</i>		500
Search on <i>Traité constitutionnel européenne</i>		228
Search on <i>Traité européen</i>		486
	<i>Sum:</i>	<u>1214</u>

Cross tabulations

Figure 7.1:

P 11 ↓ / P 31 →	The EU-answer	The Member State-answer
Yes	78% (300)	71% (590)
No	12% (44)	15% (124)

Figure 7.2:

P 5 ↓ / P 17 →	Good to form a federal Europe	Good that the State maintains
In favour	49% (396)	40% (463)
Against	7% (55)	6% (70)

List of Abbreviations

CC	Coalición Canaria; <i>centre-right party composed by different nationalist groupings from the Canary Islands.</i>
CiU	<i>Convergència i Unió; Catalan alliance, majority and governing party in Catalonia for more than two decades. Nationalists.</i>
CIS	<i>Centro de Investigaciones Sociológicas; Centre that produces pre- and post-election polls to study the characteristics and trends of citizens' voting habits.</i>
CDC	<i>Convergència Democràtica de Catalunya; Catalan party that forms part of CiU. Jordi Pujol (ex President of Catalonia) was the leader of CDC.</i>
ERC	<i>Esquerra Republicana de Catalunya; left-wing Catalan party that campaigns for independence from Spain and France. It is one of the three coalition members of the Generalitat today (May 2006) and its current President is Josep-Lluís Carod-Rovira.</i>
ETA	<i>Euskadi Ta Askatasuna; (Basque for: Basque Homeland and Freedom). Basque nationalist organisation that seeks to create an independent socialist state, separate from Spain and France. Considered as a terrorist organisation by the EU, Spain, France and USA.</i>
PP	<i>Partido Popular; largest liberal conservative party, centre-right wing. Head of opposition today (May 2006) in Spain. Governing party from 1996 to 2004 led by Prime Minister José María Aznar.</i>
PNV	<i>Partido Nacionalista Vasco; Basque party, the largest Basque party whose leader is Juan José Ibarretxe and head of the Basque community. Ibarretxe was the one that proposed the Ibarretxe Plan.</i>
PSC	<i>Partido Socialista de Catalunya; is federated with PSOE. Its President is Pasqual Maragall who is currently leading the Catalan Generalitat backed up by a coalition of two other left-wing Catalan parties (among them ERC).</i>
PSN	<i>Partido Socialista de Navarra; is federated with PSOE. Navarra's main party.</i>
PSOE	<i>Partido Socialista Obrero Español; centre-left wing party, governing in Spain today (May 2006) and whose leader is J.L.R. Zapatero.</i>